

**[Stamp Duties Act (Chapter 117) consolidated to No. 28 of 2020]**

**INDEPENDENT STATE OF PAPUA NEW GUINEA.**

**CHAPTER No. 117.**

***Stamp Duties Act.***

Being an Act relating to stamp duty.

**PART I.—PRELIMINARY.**

**1. Interpretation.**

- (1) In this Act, unless the contrary intention appears—
- “**assignment**”, in relation to a lease, includes a transfer, but does not include a deed of settlement or deed of gift;
- “**bill of exchange**” includes—
- (a) a draft, order, cheque, letter of credit or other instrument (other than a bank note) entitling or purporting to entitle a person, whether named in the instrument or not, to payment by another person of, or to draw on that other person for, a sum of money mentioned in the instrument; and
  - (b) an order for the payment of a sum of money by a bill of exchange or promissory note; and
  - (c) an order for the delivery of a bill of exchange or promissory note in satisfaction of a sum of money; and
  - (d) an order for the payment of a sum of money—
    - (i) out of a particular fund that may or may not be available; or
    - (ii) on a condition or contingency that may or may not be performed or happen; and
  - (e) an order for the payment of a sum of money at weekly, monthly or any other stated intervals; and
  - (f) an order for the payment by a person, at a time after the date of the order, of a sum of money, where the person giving or making the order sends or delivers it to the person by whom the payment is to be made;
- “**bill of lading**” means an instrument signed by the master, mate or other person in charge of a vessel or by the agent, shipping clerk or other person acting as such for such vessel, acknowledging the receipt of goods, wares or merchandise for conveyance therein to any place;

## **Stamp Duties Act**

**“book”** includes a register or other record of information, and an accounting record, however compiled, recorded or stored, whether by way of electronic means or otherwise and also includes any other document;

**“borrower”**, in relation to a credit arrangement, means the person for whom credit is, or is agreed to be, provided under the arrangement;

**“buy back of shares”**, means purchase or otherwise acquisition of its own shares by a company under Sections 57, 89 and 91 to 93 inclusive of the *Companies Act 1997*;

**“chattels”** means any possession or piece of property other than real property;

**“Chief Collector” or “Chief Collector of Taxes”** . . . [Repealed]

**“citizen”** means a person who is a citizen of Papua New Guinea by virtue of Division IV.2 (*acquisition of citizenship*) of the *Constitution* and includes, for the purpose of Section 68A, a Papua New Guinea institutional investor which is 100% owned by the State;

**“Collector of Stamp Duties”** means a Collector of Stamp Duties appointed under this Act;

**“Commissioner General”** means the Commissioner General of Internal Revenue appointed under Section 6 of the *Income Tax Act 1959*;

**“Commissioner of Taxation”** means the Commissioner of Taxation appointed under Section 6 of the *Income Tax Act 1959*;

**“company”** includes all bodies or associations corporate or unincorporate;

**“conveyance”** includes any exchange, appointment, surrender, release, foreclosure, disclaimer and every other instrument (except a will), and a decree, judgment or order of a court whereby any property in Papua New Guinea is transferred to, or vested in, or accrues to a person, but does not include a deed of gift or a deed of settlement;

**“conveyance on sale”** includes any conveyance by which or by virtue of which any real or personal property, upon the sale thereof, is legally or equitably transferred to, or vested in, the purchaser or any other person on his behalf or by his direction;

**“counterpart”** includes a duplicate;

**“credit arrangement”** means an arrangement, or an offer to enter into an arrangement, for or in connection with the provision of credit in relation to the purchase of goods (whether the goods to be purchased pursuant to the arrangement or offer are or are not identified or specified in the arrangement or offer), being an arrangement or offer under which—

- (a) the purchaser is entitled to exercise an option to pay by instalments the whole or any part of the moneys to be paid by him in respect of the purchase of the goods, either when the goods are purchased, or subsequent to the purchase of the goods; and
- (b) the purchaser is or may be required to pay, in respect of the provision of that credit or the exercise of that option, a sum of money by way of interest or by way of any other charge;

**“credit purchase agreement”** means an agreement, or an offer to enter into an agreement for or relating to the purchase of goods under which, irrespective of the time at which the property in the goods passes or is to pass to the purchaser—

- (a) the purchase price or any part thereof is payable after the expiration of a period

## **Stamp Duties Act**

of six months after the date of the making of the agreement of offer by a number of instalments (being not less than two instalments); and

(b) any instalment is to be or may be paid after delivery of the goods to the purchaser or to the order of the purchaser,

whether or not any instalment is paid or payable in cash, or by cheque, bill of exchange payable on demand, or otherwise;

**“deed of gift”** means a deed of gift as defined by Section 61;

**“deed of settlement”** means a deed of settlement as defined by Section 61;

**“die”** includes any plate, type, tool, machine or implement however used (whether or not used for any other purpose) for expressing or denoting any duty or the fact that any duty, penalty or fine has been paid or that the instrument is duly stamped or is not chargeable with any duty, and also includes any part of any such plate, type, tool, machine or implement;

**“duly stamped”** means stamped in accordance with this Act;

**“duty”** means the stamp duty for the time being chargeable by law;

**“executed”**, in relation to—

(a) an instrument under seal—means signed and sealed; and

(b) an instrument not under seal—means signed;

**“grant”**, in relation to a policy of insurance, includes provide, give a certificate evidencing or otherwise acknowledging an obligation whether contractual, statutory or otherwise, under a policy of insurance;

**“hire-purchase agreement”** includes an agreement (other than a bill of sale) by which—

(a) a person agrees to hire goods and obtains an option to purchase them; or

(b) a person agrees to pay for the hire of goods a sum or sums amounting in all to not less than 75% of the value of the goods when taken on hire;

**“hirer”** in relation to a hire-purchase agreement, means—

(a) the person to whom goods are let, hired or agreed to be sold under the agreement; or

(b) a person to whom the hirer’s rights or liabilities under the agreement have passed by assignment or by operation of law;

**“instrument”** includes—

(a) docket, note, memorandum or any written or otherwise represented document, including a written, typed or printed document; and

(b) in a case where the original of an instrument is not available for production to the Collector of Stamp Duties—

(i) a duplicate original thereof; or

(ii) a copy of the original or the duplicate original,

whether produced by the same process as the original or by a separate process and whether executed or not;

**“interest in land”** includes interest of a licensee in a mining, petroleum, gas, petroleum

## **Stamp Duties Act**

or gas pipeline or any other licence of similar nature;

**“investment contract”** means any contract, scheme or arrangement that, in substance and irrespective of its form, involves the investment of money in or any such circumstances that the investor acquires or may acquire an interest in, or right in respect of property, whether in this jurisdiction or elsewhere, that, under, or in accordance with the terms of the investment will, or may at the option of the investor, be used or employed in common with any other interest in, or right in respect of property, whether in this jurisdiction or elsewhere, acquired in or under like circumstances;

**“land”** includes a building erected on land and a part of such a building and includes an interest in land;

**“land use entitlement”** means a right or interest whether enforceable or not, whether actual, prospective or contingent and whether or not evidenced by a formal document which gives the person acquiring that right or interest an entitlement to the exclusive possession of real property (or part thereof) in Papua New Guinea;

**“land useii entitlement marketable security”** means a marketable security which comprises ofiii or incorporates therewith, whether wholly or in part, a land use entitlement;

**“lease”** means a lease of land in the country and includes an agreement for a lease, but does not include a clause providing for attornment—

- (a) by a mortgagor in a mortgage; or
- (b) by a purchaser in a contract of sale;

**“lease of goods”** means an agreement for valuable consideration by the operation of which a person is entitled to the use or possession of goods;

**“lender”** in relation to a credit arrangement, means the person by whom credit is provided or agreed to be provided under the arrangement;

**“loan”** means a contract or agreement for the provision of credit to another person in one or more of the following ways:—

- (a) by paying an amount to or in accordance with the instructions of that other person;
- (b) by applying an amount in satisfaction or reduction of an amount owed to him by that other person;
- (c) by varying the terms of a contract or agreement under which moneys owed to him by that person are payable;
- (d) by deferring the obligation of that other person to pay an amount to him;
- (e) by taking from that other person a bill of exchange or other negotiable instrument on which the other person (whether alone or with another person) is liable as drawer, acceptor or endorser;

**“long term bond”** means a fixed interest security issued by the Government or a resident corporation or society with a maturity date not less than five years from the date of issue;

**“marketable security”** includes:—

## **Stamp Duties Act**

- (a) debentures, stocks, shares, bonds or other types of security of any Government, local government authority or any body corporate, association or society; and
- (b) any stock or other security of such a kind as is or can be bought or sold through or through the agency of any recognised or prescribed stock exchange for the purposes of this Act; and
- (c) a unit in a unit trust scheme; and
- (d) any prescribed interest; and
- (e) any other security of a kind prescribed for the purposes of this Act; and
- (f) any right or option in respect of or the issue or allotment of any of the foregoing securities;

**“mid-rate of exchange”** in relation to a currency, other than Papua New Guinea currency, means the simple average of the buying and selling rates of exchange published daily by the Bank of Papua New Guinea in relation to that currency or, in a case where no such rate is published, such rate as the Collector of Stamp Duties considers is reasonable;

**“mining or petroleum information”** means information relating to the presence, absence or extent of deposits of petroleum and of minerals and upon transfer or assignment, shall, for the purposes of this Act, have a deemed value of such amount as may be agreed between the parties to the transfer or assignment, providing the amount agreed between the parties does not exceed the historical cost incurred in obtaining that information;

**“money”** includes a bill of exchange and a promissory note and any sum expressed in Papua New Guinea currency, or, where the context requires, any other currency;

**“option to purchase”** means an interest created by an agreement by which an option is taken to purchase property;

**“owner”**, in relation to a hire-purchase agreement, means—

- (a) the person letting, hiring or agreeing to sell goods under the agreement; or
- (b) a person to whom—
  - (i) the owner’s property in the goods; or
  - (ii) any of the owner’s rights or liabilities under the agreement,

have passed by assignment or by operation of law;

**“Papua LNG Gas Agreement”**<sup>1</sup> has the meaning given in Section 4(1) of the Income Tax Act 1959;

**“Papua LNG Project Company”**<sup>2</sup> means the company referred to in the definition of Company in the Papua LNG Gas Agreement;

**“participation interest”** means any right to participate or any interest—

- (a) in any profits, assets or realisation of any financial or business undertaking or scheme whether in Papua New Guinea or elsewhere; or
- (b) in any common enterprise whether in Papua New Guinea or elsewhere in

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<sup>1</sup> Inserted by Stamp Duties (Papua LNG Project)(Amendment) Act 2019, s.1

<sup>2</sup> Inserted by Stamp Duties (Papua LNG Project)(Amendment) Act 2019, s.1

## **Stamp Duties Act**

relation to which the holder of the right or interest is led to expect the profits, rent or interest from the efforts of the promoter of the enterprise or a third party; or

(c) in any investment contract,

whether or not the right or interest—

(d) is enforceable; or

(e) is actual, prospective or contingent; or

(f) is evidenced by a formal document; or

(g) relates to a physical asset;

**“People’s Unit Trust”** means the trust established by the Privatization Commission to hold investments in prescribed entities on behalf of Papua New Guinea residents and Local-level Governments who apply for units in the trust;

**“person”** includes a company, corporation, society (whether incorporated or not), an authority of the State or public authority constituted by or under a Provincial law;

**“policy of insurance”** includes—

(a) every writing whereby any contract of insurance is made or agreed to be made or is evidenced; or

(b) every writing whereby the provision of any insurance cover including third party cover is given or agreed to be given or is evidenced;

**“power of attorney”** means a letter or power of attorney or other instrument in the nature of a power of attorney, but does not include a power of attorney that is included in an instrument that is chargeable with stamp duty otherwise than as a power of attorney;

**“prescribed interest”** means—

(a) a participation interest; or

(b) a right whether enforceable or not, whether actual prospective or contingent and whether or not evidenced by a formal document to participate in a time sharing scheme;

**“promissory note”** includes—

(a) an instrument (other than a bank note) containing a promise to pay a sum of money; and

(b) a note promising the payment of a sum of money—

(i) out of a particular fund that may or may not be available; or

(ii) on a condition or contingency that may or may not be performed or happen;

**“properly stamped”** means stamped in accordance with Part IV.;

**“property”** includes real and personal property and any estate or interest in any property, real or personal, and any debt and any thing in action and includes goodwill, franchises and intellectual property;

**“property unit trust”** means “property unit trust” as defined in Section 4(1) of the *Income Tax Act 1959*;

**“purchase price”** means—

(a) in relation to a credit purchase agreement, the total amount payable under the

## **Stamp Duties Act**

agreement by the purchaser on any account in respect of the goods that are the subject-matter of the agreement, less—

- (i) the amount of deposit or other money or consideration paid or provided by the purchaser at or before the time of the making of the agreement; and
  - (ii) the total amount payable under the agreement for or by way of interest or by way of any other charge;
- (b) in relation to a hire-purchase agreement, the total amount payable under the agreement by the hirer to entitle the hirer to acquire the property in the goods that are the subject-matter of the agreement, less—
- (i) the amount of the deposit or other money or consideration paid or provided by the hirer to the owner at or before the time of the making of the agreement; and
  - (ii) the total amount payable under the agreement by way of interest or by way of any other charge;

**“purchaser”**, in relation to a credit purchase agreement, means the person to whom goods are sold or agreed to be sold pursuant to the agreement;

**“real property”** is any interest in land including freehold, leasehold, equitable or by way of security or by way of a licence under the *Land Act 1996*, *Mining Act 1992*, *Petroleum Act* (Chapter 198) or the *Forestry Act 1991* or any other licence of similar nature;

**“record”** includes book, account, deed, writing, document and any other source of information compiled, recorded or stored in written form, or on microfilm or by electronic process or in any other manner or by any other means;

**“Registrar of Companies”** means the Registrar of Companies appointed under Section 394(1) of the *Companies Act 1997* and includes a Deputy Registrar appointed under that section;

**“right to the issue of shares”** means a right of the holder of shares in a company to have issued to him shares in a company, whether or not on payment of money or other consideration;

**“stamp”** means—

- (a) a duty stamp impressed or imprinted by means of a die; or
- (b) an adhesive stamp,

provided by the Collector of Stamp Duties for the purposes of this Act;

**“stamp duty”** includes stamp duty, penalty and interest chargeable under this Act;

**“stamped”** means having a stamp impressed or affixed;

**“stock-in-trade”** includes anything produced, manufactured, acquired or purchased for purposes of manufacture, sale or exchange, and also includes live stock;

**“time sharing scheme”** means a scheme, undertaking or enterprise, whether in Papua New Guinea or elsewhere—

- (a) wherein or whereby participants may become entitled to use, occupy or possess, for two or more periods during the period for which the scheme, undertaking or enterprise is to operate, property to which the scheme, undertaking or enterprise relates; and

## **Stamp Duties Act**

- (b) that is to operate for a period of not less than three years;
- “transfer”** includes conveyance and assignment;
- “transfer of marketable securities”** includes buy back of shares;
- “transfer on sale of real property”** includes—
- (a) a lease referred to in Section 37(1); and
  - (b) an instrument, or a decree or order of a court or of an officer authorized by law, by which, for valuable consideration (whether pecuniary or not), real property situated in the country is, on sale, conveyed to, or vested in, the purchaser or in a person on his behalf or by his direction,
- but does not include a deed of settlement;
- “unit”**, in relation to a unit trust scheme, means any right or interest (whether described as a unit or a sub-unit or otherwise) of a beneficiary under the scheme;
- “unit trust”** means “unit trust” as defined in Section 4(1) of the *Income Tax Act 1959*;
- “unit trust scheme”** means any arrangement made for the purpose, or having the effect, of providing, for persons having funds available for investment, facilities for the participation by them, as beneficiaries under a trust, in any profits or income arising from the acquisition, holding, management or disposal of any property whatsoever pursuant to that trust;
- “value”** means the price that would be paid by a willing but not anxious purchaser to a willing but not anxious vendor after proper negotiations had been concluded, it is the value in exchange not the value in use that is to be ascertained;
- “valuer”** means a person whose business consists of or includes the making of valuations of the particular class of property of which a valuation is required;
- “vendor”**, in relation to a credit purchase agreement, means the person by whom the goods that are the subject-matter of the agreement are sold or agreed to be sold;
- “will”** includes a codicil and any testamentary instrument.
- (2) For the purposes of this Act—
- (a) an instrument shall be deemed to be first executed when it is first signed and sealed, or signed, as the case may be, by a party to the instrument; and
  - (b) a contract made by acceptance of an offer contained in an instrument shall be deemed to be first executed when the offer is accepted; and
  - (c) where, by virtue of two or more agreements, none of which by itself constitutes a hire-purchase agreement, there is a bailment of goods and either the bailee may buy the goods or the property in the goods may pass to the bailee—
    - (i) those agreements shall be deemed to constitute a single hire-purchase agreement made at the time when the last of those agreements was made; and
    - (ii) the aggregate of the sums payable by way of purchase price under all those agreements shall be deemed to be the amount of the purchase price under that hire-purchase agreement.
- (3) Where stamp duty is expressed to be a percentage of an amount, the duty payable shall not include any remaining fractional part of one kina.



**PART II.—ADMINISTRATION.**

**2. Provision of stamps, etc.**

The Collector of Stamp Duties shall—

- (a) provide such stamps and dies as are necessary; and
- (b) arrange for the sale of adhesive stamps,

for the purposes of this Act.

**3. Administration of this Act.**

- (1) For the purposes of this Act, the Minister may appoint a Collector of Stamp Duties and such Assistant Collectors of Stamp Duties as are required.
- (2) Until the Minister makes an appointment under Subsection (1), the person for the time being occupying the office of Commissioner of Taxation is deemed to be the Collector of Stamp Duties.
- (3) The Collector of Stamp Duties has, subject to the direction of the Commissioner General, the general administration of this Act, and a reference in this Act to the Collector of Stamp Duties includes, where the context requires, a reference to the Commissioner General.
- (4) Section 10A of the *Income Tax Act 1959* applies to this Act.

**4. Delegation.**

- (1) The Collector of Stamp Duties may, either generally or in relation to a matter or class of matters, and either in relation to the whole or a part of Papua New Guinea, by writing under his hand, delegate all or any of his powers and functions (except this power of delegation) under this Act or any other Act that is an Act with respect to stamp duties.
- (2) A power or function delegated under Subsection (1) may be exercised or performed by the delegate in accordance with the instrument of delegation.
- (3) Where, under this Act or under any other Act that is an Act with respect to stamp duties, the exercise of a power or the performance of a function by the Collector of Stamp Duties is dependent upon the opinion, belief or state of mind of the Collector of Stamp Duties in relation to a matter and that power or function has been delegated in pursuance of this section, that power or function may be exercised or performed by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter.
- (4) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Collector of Stamp Duties.
- (5) A delegation under this section may be made subject to a power of review and alteration by the Collector of Stamp Duties, within a period specified in the instrument of delegation, of

## **Stamp Duties Act**

acts done in pursuance of the delegation and a decision given upon such a review or alteration shall be deemed to be the decision of the Collector of Stamp Duties.

### **4A. Secrecy.**

(1) In this section, “officer” means a person who is or has been appointed to or employed in the Public Service, and who, by reason of that appointment or employment, or in the course of that employment, may acquire or has acquired information respecting the affairs of any other person disclosed or obtained under the provisions of this Act.

(2) Subject to this section, an officer shall not, either directly or indirectly, except in the performance of a duty as an officer, and either while he is or after he ceases to be an officer, make a record of, or divulge or communicate to any person, any such information so acquired by him.

(3) An officer shall not be required to produce in any court a document obtained under or for the purposes of this Act, or a document or return so made or given or lodged or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties as an officer, except when it is necessary to do so for the purpose of carrying into effect the provisions of this Act.

(4) Nothing in this section prevents a Collector of Stamp Duties or a person authorized by the Collector of Stamp Duties from communicating any information to a person acting under and in accordance with the *Income Tax Act 1959* and such other Acts as the Minister may, by notice in the National Gazette, declare to be Acts to which this section applies in respect of the information.

(5) A person to whom information is communicated under Subsection (4) and any person or employee under his control, is, in respect of that information, subject to the same rights, privileges, obligations and liabilities under this section as if he were an officer.

(6) For the purposes of Subsections (2) and (5), an officer or other person shall be deemed to have communicated the information referred to in those subsections if he communicates that information to a Minister.

(7) An officer shall, if and when required by the Collector of Stamp Duties to do so, make an oath or declaration in the manner and form prescribed, to maintain secrecy in conformity with the provisions of this section.

Penalty: A fine of K10,000.00 or imprisonment for 18 months.

## **PART III.—IMPOSITION OF DUTIES AND COLLECTION OF DUTIES BY STAMPS.**

### **Division 1.—General.**

### **5. Imposition of stamp duties.**

(1) Subject to this Act, stamp duty is chargeable in accordance with the Schedule.

## **Stamp Duties Act**

- (2) Stamp duty chargeable on an instrument is payable—
- (a) in the case of an instrument that is first executed outside the country before 1 January 1995—when the instrument comes into the country; and
  - (b) in all other cases—when the instrument is first executed.
- (3) An instrument that was first executed before 1 July 1953 (being the date of commencement of the pre-Independence *Stamp Duties Act 1952*) is not chargeable with stamp duty under this Act.

### **5A. Liability to duty of instruments outside Papua New Guinea.**

Subject to this Act, duty shall be chargeable in respect of an instrument that is outside Papua New Guinea if the instrument (irrespective of whether it was executed in Papua New Guinea or otherwise) relates to property situated, or any matter or thing done or to be done in Papua New Guinea.

### **5B. Application to the Personal Property Security Act 2011**

Transactions entered into between parties under or that are subject to the Personal Property Security Act 2011 are exempt from stamp duty.

## **6. Official exemptions.**

Without affecting the liability of any other party to an instrument—

- (a) the State; or
- (b) a Provincial Government; or
- (ba) a Local-level Government,

is not liable to pay duty.

### **6A. Exemption for Ramu Nickel Project.**

- (1) In this section, unless the contrary intention appears—
- “MCC”, “Joint Venturers”, “Joint Venture Agreement”, “Special Mining Lease” and “Exploration Licence” have the same meanings respectively as in the Mining Development Contract—Ramu Nickel Project;
- “Mining Development Contract—Ramu Nickel Project” means the Mining Development Contract—Ramu Nickel Project that was signed on 26 July 2000 by The Independent State of Papua New Guinea and Ramu Nickel Limited and Orogen Minerals (Ramu) Limited as amended by the Mining Development Contract Amendment Agreement Ramu Nickel Project that was signed on 10 August 2006 by the Independent State of Papua New Guinea, MCC Ramu NiCo Ltd, Ramu Nickel Limited, Mineral Resources Ramu Limited and Mineral Resources Madang Limited.
- (2) The following instruments are exempt from stamp duty -

## **Stamp Duties Act**

- (a) the transfer of any interest in the Exploration Licences (or related mining information), the Special Mining Lease or any mining lease, lease for mining purposes, or mining easement arising from the entering into of the Joint Venture Agreement; and
- (b) the subsequent transfer or issue of shares to any Chinese party who, on or before 10 August 2007 becomes a shareholder, directly or indirectly, in MCC; and
- (c) the transfer of any interest in the Exploration Licences (or related mining information), the Special Mining Lease or any mining lease, lease for mining purposes, or mining easement arising from any Chinese party that is owned by the Chinese Government directly or indirectly becoming a Joint Venturer.

### **7. Duty on mortgages.**

(1) In this Act—

“foreign security” means every security for money by or on behalf of any foreign or colonial state, government, municipal body, corporation, or company—

- (a) which is made or issued in Papua New Guinea; or
- (b) upon which any interest is payable in Papua New Guinea; or
- (c) which is assigned, transferred, or in any manner negotiated in Papua New Guinea,

but does not include a bill of exchange or a promissory note;

“loan security” means a debenture, bond or covenant for securing a loan made or to be made but does not include a mortgage;

“mortgage” includes a security by way of mortgage or charge—

- (a) for the payment of any definite and certain sum of money advanced or lent at the time or previously due or owing, or forborne to be paid, being payable; and
- (b) 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.

(2) Where—

(a) an instrument is executed in favour of a person for the purpose of securing the repayment of money lent, or to be lent, advanced or paid, or which has or may become due; and

(b) the total amount thereby secured or to be secured or to be ultimately recoverable is unlimited or unascertainable at the time of execution,

duty may be paid upon such an instrument according to the amount certified upon such instrument by the manager or accountant of a bank or public officer of a company as the amount for the time being intended to be secured thereby, and upon payment of such duty, the instrument shall be deemed to be duly stamped as a security for the amount so certified, and no more.

(3) Every person who holds an instrument stamped in accordance with Subsection (2), and by which a sum, in excess of the amount in respect of which duty has been paid, has been advanced on the security of such instrument during the 12 months immediately preceding 1 June

## **Stamp Duties Act**

in any year during which such instrument has been in force as a security, shall produce such instrument on or before 1 July in such year to the Collector of Stamp Duties with a certificate thereon signed by the manager or accountant of a bank, or the public officer, stating the highest amount so advanced during that period, and shall cause the duty payable in respect of the excess to be impressed thereon.

(4) The Collector of Stamp Duties shall certify upon such an instrument that such duty has been paid, and neither the bank nor the person executing or signing such instrument shall be liable for any penalty for having not previously paid such duty.

(5) A person holding an instrument which has been stamped in accordance with Subsection (2)—

(a) when the amount due on such instrument is paid off, or when the operation of the same ceases by effluxion of time, shall; and

(b) at any other time, if the provisions of Subsection (3) have been observed in respect thereof, may,

deliver to the Collector of Stamp Duties a statutory declaration made by the manager or accountant of a bank, or the public officer of a company, stating the highest amount at any time owing as principal on the security of such instrument since the execution thereof, and pay the duty, if any, due thereon, and thereupon neither the bank nor the person executing or signing such instrument shall be liable for any penalty for not having previously paid such duty.

(6) Any such instrument which has been stamped in accordance with Subsection (2), but which has not been further stamped in accordance with Subsection (3) or Subsection (5) in respect of any additional duty due thereon, may be further stamped at any time before the Collector of Stamp Duties, upon payment of the unpaid duty and the penalty, if any, prescribed in Section 18, and for the purposes of that section the date of first execution shall be deemed to be 1 June next after the advance in respect of which duty is to be paid.

(7) Where an instrument of variation is executed varying the principal sum secured by a mortgage that instrument of variation shall be deemed to be a mortgage chargeable with stamp duty on the amount secured by the mortgage as varied less the amount of duty previously paid on the mortgage.

(8) Where a notice of a variation of the principal sum secured by a mortgage of property of a company is required to be lodged with the Registrar of Companies and the variation is not effected by an instrument, the notice shall be deemed to be a mortgage chargeable with stamp duty on the amount secured by the mortgage as varied less the amount of duty previously paid on the mortgage.

(9) Stamp duty on an instrument or notice of variation under Subsections (7) and (8) of a mortgage shall be denoted by an impressed stamp.

(10) All moneys paid by a person by way of duty as provided by this section shall be deemed to have been so paid on behalf of the person giving the security, and may be added to the moneys thereby secured and the same may be recovered from such person in any court of competent jurisdiction as money paid to the use of such person.

(11) Where—

(a) a loan or contract for a loan is executed; and

## **Stamp Duties Act**

(b) an instrument to which Item 1A in the Schedule refers is executed for the purpose of securing that loan,

the parties may decide, with the approval of the Collector of Stamp Duties, to treat one of the instruments, as a principal instrument, and on approval being given—

(c) the principal instrument is chargeable with stamp duty as a loan or contract for loan; and

(d) the other instrument is chargeable with stamp duty of an amount of K1.00.

### **8. Liability for duty.**

(1) Subject to this Act—

(a) the person or persons specified in the Schedule are liable for stamp duty payable in respect of an instrument; and

(b) if Paragraph (a) does not apply, or if a person referred to in Paragraph (a) cannot, after reasonable efforts have been made by the Collector of Stamp Duties, be located in Papua New Guinea, the person by whom or on whose behalf the instrument is held is liable for any stamp duty payable in respect of the instrument.

(2) A person who is liable for stamp duty under this Act is personally liable for payment of the stamp duty to the State in the manner provided for by or under this Act and, upon the stamp duty becoming due and payable, the amount of the stamp duty—

(a) shall be deemed to be a debt due to the State; and

(b) may be sued for and recovered in any court of competent jurisdiction by the Collector of Stamp Duties suing in his official name.

(3) Nothing in this section shall be construed so as to exonerate a person from any liability imposed on him by or under this Act, or to exempt an instrument or matter from any duty or disability to which it is subject under this Act.

(4) The Collector of Stamp Duties may at any time, or from time to time, by notice in writing (a copy of which shall be forwarded to the person liable at his last place of address known to the Collector of Stamp Duties), require—

(a) any person by whom any money is due or accruing or may become due to the person liable; or

(b) any person who holds or may subsequently hold money for or on account of the person liable; or

(c) any person who holds or may subsequently hold money on account of some other person for payment to the person liable; or

(d) any person having authority from some other person to pay money to the person liable,

to pay to the Collector of Stamp Duties, either forthwith upon the money becoming due or being held or at or within a time specified in the notice (not being a time before the money becomes due or is held)—

(e) so much of the money as is sufficient to pay the amount due by the person liable in respect of any duty and of any fines and costs imposed upon him under this Act, or the

## **Stamp Duties Act**

whole of the money when it is equal to or less than the amount; or

(f) such amount as is specified in the notice out of each of any payments that the person so notified becomes liable from time to time to make to the person liable, until the amount due by the person liable in respect of any duty and of any fines and costs imposed upon him under this Act is satisfied,

and may at any time, or from time to time, amend or revoke any such notice, or extend the time for making any payment in pursuance of the notice.

(5) A person who fails to comply with a notice under this section is liable to pay—

(a) the amount specified in the notice; or

(b) the amount due or held on behalf of the person liable,

whichever is the lesser amount, and any amount collected under this subsection shall be applied against the debt of the person liable.

(6) In addition to any amount that he is liable to pay under Subsection (5), a person who fails to comply with a notice under this section is guilty of an offence.

Penalty: A fine of not less than K650.00 and not exceeding K6,500.00.

(6A) Where duty is payable under this Act, there is payable, in addition to the duty, interest on the unpaid duty at the rate of 10% per annum from—

(a) the date of which the duty was liable to be paid; or

(b) where Section 10A or Section 81CE applies, from the date the return was required to be lodged under that Section; or

(c) where Section 9(1) of the Regulation applies, from the date on which the return was required to be lodged under the Regulation.

(7) A person making a payment in pursuance of this section shall be deemed to have been acting under the authority of the person liable and of all other persons concerned and is, by force of this subsection, indemnified in respect of that payment.

(8) If the Collector of Stamp Duties receives a payment in respect of the amount due by the person liable before payment is made by the person so notified he shall forthwith give notice of receipt of the payment to that person.

(9) In this section—

“duty” means duty, penalties and fines and includes a judgement debt and costs in respect of any such duty;

“person” includes company, partnership, the State and any public authority constituted by or under a law of Papua New Guinea;

“person liable” means a person specified in the Schedule as being liable to pay the duty in respect of the instrument.

(10) A notice to be given under this section to the State may be served upon such person as is prescribed and a notice so served shall be deemed to have been served upon the State.

### **9. Stock certificates, etc., not liable to stamp duty.**

## **Stamp Duties Act**

The following instruments and documents are not liable to stamp duty unless they are declared to be so liable by the prospectus relating to the loan in respect of which they are issued or used:—

- (a) stock certificates, Treasury Bonds, debentures and other prescribed securities issued under the *Loans Securities Act*; and
- (b) Treasury Bills and agreements entered into under Part IV of the *Loans Securities Act*; and
- (c) documents relating to the purchase, sale, transfer, transmission, conversion, renewal or redemption of Treasury Bills, stock, Treasury Bonds, debentures or other prescribed securities issued under the *Loans Securities Act*, or relating to the conversion, renewal or redemption of any other portion of the public debt of the State; and
- (d) cheques and drafts drawn by a bank on behalf of the State in connexion with any such conversion, renewal or redemption; and
- (e) documents relating to the payment of interest on Treasury Bills, stock, Treasury Bonds, debentures or other prescribed securities issued under the *Loans Securities Act* or any other portion of the public debt of the State; and
- (f) cheques and drafts drawn by a bank on behalf of the State for the payment of any such interest.

### **10. Stamping of instruments.**

- (1) Except where express provision is made by this Act to the contrary all duties are to be denoted by impressed stamps only.
- (2) An instrument shall not be deemed to be duly stamped unless the stamp appears on the face of the instrument in such a way that it cannot be used for, or applied to, any other instrument, whether on the same piece of material or not.
- (3) Where two or more instruments are written on the same piece of material, each instrument shall be stamped separately and distinctly with the stamp duty with which it is chargeable.
- (4) Where the Collector of Stamp Duties has given his approval to a person in relation to an instrument included in a class of instrument, the person may, in such manner as the Collector of Stamp Duties approves, denote that the instrument is exempt from stamp duty.

### **10A. Stamp duty returns.**

(1A) (Repealed)

- (1) Where a person is liable to pay stamp duty on a large number of instruments on a regular basis or for any other reason, the Collector of Stamp Duties may, in his absolute discretion, grant approval for that person to lodge a stamp duty return, in which case the provisions of this section shall apply.
- (2) Approval under Subsection (1)—
  - (a) may be general or it may relate to a particular class or a number of classes of instruments; and



**Stamp Duties Act**

(b) may be withdrawn by the Collector of Stamp Duties for such reason as he thinks fit, in which case he shall notify the person that approval has been withdrawn and from what date.

(3) A return under this section—

(a) shall be in a form authorized by the Collector of Stamp Duties in relation to instruments generally or the class or classes of instruments for which approval has been given; and

(b) shall be lodged in duplicate setting out such details as are required to calculate the duty and to complete the form in relation to any instruments that would, but for the operation of this section, have been required to be lodged at or before the expiration of a particular calendar month; and

(c) shall be lodged and paid on or before the twenty first day of the next succeeding calendar month; and

(d) shall, in a case where there are no instruments of the kind referred to in Paragraph (b), be a nil return.

(3A) Where an amount remains unpaid after the expiration of the time provided for payment under this section, additional duty of the greater of—

(a) K120.00;

(b) an amount equal to 10% of the amount of the unpaid duty for each 30 day period or part thereof for which the return remains unpaid,

calculated from the date the return is required to be lodged.

(4) Notwithstanding any other provisions of this Act, where an approval under this section is in force in relation to an instrument in relation to a calendar month—

(a) a requirement under this Act to lodge the instrument may be satisfied by complying with this section; and

(b) the stamp duty in respect of the instrument is due and payable on the 21st day of the next succeeding calendar month.

(5) (Repealed)

(6) Where duty is paid in respect of a return under this section, the duty shall be denoted by an impressed stamp on the duplicate return.

(7) An instrument in respect of which duty has been paid under this section shall be deemed to have been duly stamped.

(8) A person who, having been given approval to lodge a return under this section, refuses or fails to do so is guilty of an offence.

Penalty: A fine of not less than K650.00 and not exceeding K6,500.00.

## **Stamp Duties Act**

(9) A person who lodges or purports to lodge a return in accordance with this section that is false or misleading in a material particular is guilty of an offence.

Penalty: A fine not exceeding K6,500.00.

(10) Where approval under this section is in force in relation to an instrument in relation to a calendar month, the person to whom such approval has been given shall—

(a) maintain a register containing or including entries setting out the following details in relation to instruments contained in the class or classes for which approval has been given—

- (i) the date of first execution; and
- (ii) the party or parties; and
- (iii) the consideration (if any); and
- (iv) the subject matter of the instrument and its value (where applicable); and
- (v) such other details as may be required in writing from time to time by the Collector of Stamp Duties; and

(b) upon making an entry in the register referred to in Paragraph (a) in relation to an instrument, endorse on the instrument a statement that the stamp duty (if any) has been or will be paid by him.

(11) A person who endorses an instrument apparently in conformity with Subsection 10(b) before entering in the register the details required by Subsection 10(a) is guilty of an offence.

Penalty: A fine of not less than K650.00 and not exceeding K6,500.00.

(12) Upon being endorsed in accordance with Subsection (10), an instrument shall be deemed to be duly stamped.

### **11. Instrument relating to several distinct matters.**

Subject to this Act and any other Act, an instrument containing or relating to several distinct matters is chargeable with stamp duty in respect of each of those matters as if each matter were expressed in a separate instrument.

### **12. Duplicates and counterparts.**

(1) If it is proved, to the satisfaction of the Collector of Stamp Duties, that the original instrument is duly stamped, a duplicate or counterpart of an instrument chargeable with stamp duty may at any time be impressed with a stamp indicating that the original instrument is duly stamped.

(2) Where an original instrument is duly stamped with an adhesive stamp, the person required to cancel the adhesive stamp may, at the time of so doing, certify in writing on a duplicate or counterpart of the instrument, in the presence of a person who subscribes his name as witness, that the original instrument is duly stamped.

## **Stamp Duties Act**

(3) Unless a duplicate or counterpart of an instrument chargeable with stamp duty is stamped under Subsection (1) or bears a certificate in accordance with Subsection (2), it is chargeable with stamp duty as if it were an original instrument.

### **13. Statement of facts affecting liability to duty.**

(1) All the facts and circumstances affecting—

- (a) the liability of an instrument to stamp duty; or
- (b) the amount of stamp duty with which an instrument is chargeable,

shall be set out fully and in precise terms in the instrument.

(2) A person who—

- (a) executes an instrument in which all the facts and circumstances specified in Subsection (1) are not fully set out in precise terms; or
- (b) being employed or concerned in or about the preparation of an instrument, omits or fails to set out in the instrument fully and in precise terms all the facts and circumstances specified in Subsection (1),

is guilty of an offence.

Penalty: Where the offence is committed with intent to defraud the State—a fine of not less than K650.00 and not exceeding K6,500.00. In any other case—a fine not exceeding K650.00.

### **13A. Review of assessments.**

(1) The Collector of Stamp Duties may, after assessing an amount of duty or penalty payable, amend the assessment by making such alterations to it as he deems necessary.

(2) Any additional duty or penalty resulting from an amended assessment shall be deemed to be a debt due to the State and recoverable as stamp duty in accordance with Section 8.

(3) If, as a result of amending an assessment, the amount payable as duty or penalty is reduced, the amount by which it is reduced shall be deemed, for the purposes of Section 20, not to have been payable.

(4) Following the amendment of an assessment, the Collector of Stamp Duties shall issue, as soon as is practicable, written notice of—

- (a) the amended assessment; and
- (b) the amount of duty or penalty—
  - (i) payable as a result of the amendment; or
  - (ii) overpaid as a result of the amendment.

(5) For the purposes of this section, reference to penalty includes interest payable.

(6) Where, as a result of an amendment to an assessment, the amount of duty or penalty is reduced, the Collector of Stamp Duties shall make a refund of the amount overpaid to the party

## ***Stamp Duties Act***

to the instrument by whom or on whose behalf the duty or penalty was paid, or to his executors, administrators or assigns.

### **14. Valuation of money in currency other than Papua New Guinea currency.**

(1)vi Where an instrument is chargeable with stamp duty in respect of money in a currency other than the currency of Papua New Guinea, the duty is chargeable on the value of the money in the currency of Papua New Guinea, according to the mid-rate of exchange applicable at the date of the instrument.

(2) Where an instrument contains a statement of the exchange rate that differs from the applicable mid-rate of exchange and is stamped in accordance with that statement, it is, so far as regards the subject matter of the statement, deemed to be duly stamped.

(3) The provisions of Section 13A, other than Section 13A(4), apply to any deficiency of duty arising out of a statement referred to in Subsection (2).

### **14A. Value of property conveyed or transferred.**

(1) Subject to Subsection (2), a reference in this Act to the value of property conveyed or transferred is a reference to the market value of the property—

(a) in the case of a conveyance on sale—as at the date of the sale; or

(b) in any other case—as at the date of the conveyance,

assuming, in either case, that the property had, at that date, been free from any encumbrances.

(2) In the case of a conveyance on sale, the Collector of Stamp Duties may treat the consideration for the sale as being the value of the property conveyed or transferred unless it appears to the Collector of Stamp Duties that the consideration may be less than the value of the property as referred to in Subsection (1).

(3) Where no evidence of the value of property conveyed or transferred, or comprising or forming part of the consideration for a conveyance, is furnished to the Collector of Stamp Duties or the evidence so furnished is in his opinion unsatisfactory, the Collector of Stamp Duties may cause a valuation of the property to be made by some person appointed by him and may assess the duty payable by reference to that valuation.

(4) The Collector of Stamp Duties may, having regard to the merits of the case, charge the whole or a part of the expenses of, or incidental to, the making of a valuation pursuant to Subsection (3) to the person liable to pay the duty and may recover the amount so charged from him as a debt due to the State.

(5) In Subsection (1), “encumbrance” does not include an encumbrance prescribed by regulation under this Act to be a prescribed encumbrance for the purposes of this Act.

(6) In the case of a lease for which any consideration other than the rent reserved may be paid or agreed to be paid, the amount of the other consideration shall be deemed to be the consideration for the conveyance on sale.

(7) Where the consideration or any part of the consideration for a conveyance on sale

## **Stamp Duties Act**

consists of any real or personal property other than money, the market value of the real or personal property at the date of the sale shall be taken as the value of the consideration or part of the consideration.

(8) Where the consideration or any part of the consideration for a conveyance on sale consists of money payable periodically for a definite period, so that the total amount to be paid can be previously ascertained, the total amount shall be taken as the consideration or part of the consideration.

(9) Where the consideration or any part of the consideration for a conveyance chargeable with *ad valorem* duty consists of shares or debentures to be issued by a company, or a contract to issue such shares or debentures, the market value of the shares or debentures shall be taken as the value of the consideration or part of the consideration.

### **15. Valuation of marketable securities.**

(1) This section is subject to Division III.10.

(2) Notwithstanding the other provisions of this Act but subject to this section, where an instrument is chargeable with stamp duty in respect of the value of a marketable security, the duty is chargeable—

(a) on the value of the marketable security—according to its average price; or

(b) if its average price cannot reasonably be established—according to its true value,

at the date of the instrument.

(3) Where an instrument is chargeable with stamp duty in respect of the value of shares or debentures to be issued by a company, the duty is chargeable on the face value of the shares or debentures.

(4) In computing the value of a marketable security or right to the issue of shares, no account shall be taken of a provision in the rules, by-laws or memorandum or articles of association of the corporation or society which, or the operation of which, restricts or would restrict a dealing with the marketable security or right, and the value of the marketable security or right shall be computed as if no such provision existed.

### **16. Duty on other instruments.**

Where the stamp duty with which an instrument is chargeable depends on the stamp duty paid on another instrument, the Collector of Stamp Duties may, on the production to him of both instruments, denote on the first-mentioned instrument, in such manner as he thinks proper, that the duty has been paid on the second-mentioned instrument.

### **16A. Splitting of Transactions.**

(1) Where there are executed two or more agreements for sale or conveyance of separate parts of, or separate estates or any interest in any property in Papua New Guinea –

## **Stamp Duties Act**

- (a) pursuant to one transaction relating to the whole of the property; or
  - (b) that together evidence or give effect to what is, substantially, one transaction relating to the whole of the property, one of the agreements shall be charged with the same ad valorem duty to be paid by the purchaser or person to whom the property is agreed to be conveyed as if it were a conveyance of the property agreed to be sold or conveyed for the total consideration for the whole of the property to which the transaction relates and shall be stamped accordingly and the other agreement or agreements shall not be charged with the duty.
- (2) For the purposes of Subsection (1), the executed agreements shall be –
- (a) between the same parties; or
  - (b) between different parties, who are related persons (within the meaning of “related persons” contained in Section 78B; and
  - (c) within or apparently within a period of 12 months of each other, the agreements shall, unless the Collector of Stamp Duties is satisfied that it would not be just and reasonable in the circumstances, be deemed to have been executed pursuant to one transaction relating to the whole of the property.
- (3) A person –
- (a) who executes or is otherwise engaged or concerned in the preparation of an agreement referred to in Subsection (1); and
  - (b) who does not disclose, in writing to the Collector of Stamp Duties –
    - (i) upon submission by him or any other person of the agreement to the Collector of Stamp Duties for stamping; or
    - (ii) when required by the Collector of Stamp Duties to do so, the total consideration on which Subsection (1) requires ad valorem duty to be charged in respect of that agreement,

is guilty of an offence.

Penalty: A fine not less than K650.00 and not exceeding K6,500.00.

### **17. Stamping of instruments after first execution.**

Subject to this Act, an instrument chargeable with stamp duty may be duly stamped without penalty within two months after the day on which duty on the instrument became payable.

### **18. Penalties in respect of unstamped instruments.**

- (1) This section shall be read subject to Sections 70 and 80.
- (1A) Except where other express provision is made by this or any other Act, a person liable with respect to any instrument chargeable with duty shall cause it to be duly stamped or to be lodged with the Collector of Stamp Duties or, in accordance with the provisions of Sections 46(7) and 47(9), marked “interim stamp only”—
- (a) where it was first executed or came into the country on or after 1 November 1989

**Stamp Duties Act**

and before 1 January 1990—before 1 July 1990; or

(b) after 1 January 1995—

- (i) where it was executed in Papua New Guinea—within 60 days after its execution; or
- (ii) where it was executed outside Papua New Guinea—within 60 days after its receipt in Papua New Guinea or within 180 days after its execution, whichever period first expires.

(1B) A person who contravenes Subsection (1A) is guilty of an offence and liable to a penalty—

- (i) A fine of not less than K650.00 and not exceeding K6,500.00; or
- (ii) an amount equal to the amount of duty chargeable on the instrument,

whichever is the lesser.

(2) Subject to Section 20, an instrument that is unstamped or insufficiently stamped after the expiration of the period referred to in Subsection (1A) shall, in addition to the unpaid duty, be charged with penalty duty of—

- (a) K120.00; or
- (b) an amount equal to 10% of the amount of the unpaid duty for each 30 day period or part thereof for which the instrument has remained unstamped or insufficiently stamped calculated from the day when it was first executed until the amount equals the amount of the unpaid duty,

whichever of the amount specified in Paragraph (a) or the amount calculated in accordance with Paragraph (b) is the greater amount.

(3) . . . [Repealed]

(4) Where a penalty has become payable under this section in respect of an instrument, and the unpaid duty and the penalty (to the extent to which it has not been remitted) have been paid or recovered, the Collector of Stamp Duties shall stamp the instrument with a stamp denoting the amount of the duty and penalty paid or recovered, and the instrument shall be deemed to be duly stamped.

(5) This section does not authorize the stamping, after execution, of an instrument that is required to be stamped before execution.

(6) This section applies to an instrument that is a deed of gift and is also chargeable with duty as a transfer on sale of real property or under some other description, and references in this section to duty include, in the case of such an instrument, references to the duty payable on the instrument otherwise than as a deed of gift.

(7) Any person who, with intent to defraud the State—

## **Stamp Duties Act**

- (a) evades or attempts to evade any stamp duty; or
- (b) refuses or fails to lodge any instrument, return or other document as required under this Act,

is guilty of an offence.

Penalty: A fine of not less than K1,300.00 and not exceeding K64,000.00 and, in addition where Paragraph (b) applies, an amount of K130.00 for each day during which the refusal or failure continues.

### **19. Unstamped instruments produced in evidence.**

(1) Subject to this Act, an instrument shall not—

- (a) be pleaded or given in evidence, except in criminal proceedings; or
- (b) be admitted to be good, useful or available in law,

unless it is duly stamped in accordance with the law in force at the time when—

- (c) it was first executed; or
- (d) it came into the country,

whichever is the later.

(1A) Subsection (1) applies to and in respect of an unexecuted copy of an instrument referred to in that subsection, in the same way as it applies to the instrument unless—

- (a) the court is satisfied that the instrument of which it is a copy is duly stamped; or
- (b) the instrument is a copy referred to in Section 58C.

(2) Where an instrument that is not duly stamped is produced in evidence in any proceedings other than criminal proceedings, the officer of the court whose duty it is to read the instrument shall inform the court that the instrument is not duly stamped.

(3) Where an instrument referred to in Subsection (2) is one that may be stamped after it has been executed, it may be received in evidence on payment to the officer referred to in Subsection (2) of—

- (a) a fee of K190.00; and
- (b) the stamp duty, or so much of the stamp duty as has not been paid; and
- (c) the penalty payable on stamping the instrument.

(4) The officer receiving the duty and penalty shall—

- (a) give a receipt; and
- (b) make an entry in a book kept for the purpose showing the amount and particulars of the payment; and

(c) advise the Collector of Stamp Duties of—

- (i) the name or title of the cause or proceedings; and
- (ii) the name of the party from whom he received the money; and



**Stamp Duties Act**

- (iii) the amount and date of receipt of the money; and
- (iv) the date and description of the instrument; and

(d) pay the amount to the Collector of Stamp Duties.

(5) When—

- (a) an instrument in respect of which money has been paid under Subsection (3); and
- (b) the receipt showing that payment,

are produced to him, the Collector of Stamp Duties shall denote on the instrument the payment of the duty and of the penalty (if any), and the instrument shall be deemed to be duly stamped.

**20. Assessment of duty.**

(1) Where—

(a) a person requests the Collector of Stamp Duties to express his opinion on the following questions with reference to an instrument that has been executed—

- (i) whether stamp duty is chargeable; and
- (ii) if so, what amount of duty is chargeable; and
- (iii) whether a penalty is chargeable; and
- (iv) if so, what amount of penalty is chargeable; or

(b) a person refuses or fails to deliver or lodge with the Collector of Stamp Duties 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; or

(c) the Collector of Stamp Duties 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

(d) the Collector of Stamp Duties has reason to believe or suspect that a person is liable to pay any fee, duty or other amount under this Act,

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

(2) Where the Collector of Stamp Duties is of opinion that an instrument is not chargeable with stamp duty, he shall mark the instrument with a certificate denoting that it is not chargeable with duty.

(3) Where an assessment is made under this section, the Collector of Stamp Duties shall cause a notice in writing of the assessment and the duty or penalty payable to be served on the person liable to pay it.

## **Stamp Duties Act**

(3A) The failure of the Collector of Stamp Duties to serve a notice of assessment under Subsection (3) shall not invalidate an assessment of duty or penalty.

(4) For the purpose of assessing the penalty (if any) chargeable on an instrument in a case to which Subsection (1)(a) applies, the period from the date on which the Collector of Stamp Duties is requested under Subsection (1) to express his opinion to the date one month after the date on which that opinion is communicated to the person requiring the opinion shall not be taken into account.

(4A) The amount of duty or penalty specified in a notice of assessment served under Subsection (3) is due and payable on the date specified in the notice, being a date not less than 30 days after the date of service of the notice.

(4B) Where an amount of duty or penalty specified in a notice of assessment under this section is not paid on or before the date specified in the notice and the notice has been served on the person liable under the assessment not less than 30 days prior to the date for payment specified in the notice, the person liable under the assessment shall pay to the Collector of Stamp Duties, in addition to the duty or penalty so specified, a further penalty by way of interest calculated at the rate of 20% per annum of the duty or the penalty from the date for payment specified in the notice until the duty or penalty is paid.

(4C) The Collector of Stamp Duties may reduce or remit any penalty payable under this section.

(5) When an instrument is stamped in accordance with an assessment (including any assessment of penalty) made by the Collector of Stamp Duties, he shall mark the instrument with a certificate denoting that it is duly stamped.

(6) Notwithstanding any objection relating to stamp duty, an instrument that is marked with a certificate denoting that it is not chargeable with duty or that it is duly stamped is admissible in evidence and available for all purposes.

(6A) The production of a notice of assessment, or of a document under the hand of the Collector of Stamp Duties or an Assistant Collector of Stamp Duties purporting to be a copy of a notice of assessment, is conclusive evidence of the due making of the assessment and (except in proceedings on appeal against the assessment) that the amount and all the particulars of the assessment are correct.

(7) An instrument the stamp duty or penalty on which has been assessed by the Collector of Stamp Duties shall not be stamped otherwise than in accordance with the assessment made by the Collector of Stamp Duties.

(8) This section does not authorize the stamping, after execution, of an instrument that is required to be stamped before execution.

### **20A. Objections against assessments.**

## **Stamp Duties Act**

(1) Within 30 days after the date of an assessment or an amended assessment under this Act, and on the payment of duty and penalty in conformity with the assessment, a person who is dissatisfied with the assessment may object in writing to the Collector of Stamp Duties stating in detail the grounds for the objection.

(2) The Commissioner General shall consider the objection and serve notice in writing of his decision and the reasons therefor, on the person who lodged the objection.

(3) Where, as a result of an objection being allowed, in whole or in part, the amount of any duty or penalty is reduced, the Collector of Stamp Duties shall make a refund of the amount so reduced to the party to the instrument by whom or on whose behalf the duty or penalty was paid, or to his executors, administrators or assigns.

### **21. Appeal against assessment.**

(1) Where, in relation to an objection under Section 20A, a person is dissatisfied with the decision on the objection, he may, within 60 days of the date of service of the notice under Section 20A(2), appeal to the National Court in accordance with the *National Court Rules* against the assessment stating therein the facts of the case and the grounds of appeal.

(2) . . . [Repealed]

(3) . . . [Repealed]

(4) . . . [Repealed]

(5) On the hearing of the appeal, the National Court shall—  
(a) determine the questions at issue; and  
(b) assess the duty and penalty (if any) that the Court considers to be chargeable.

(6) Where the National Court's assessment is less than the assessment of the Collector of Stamp Duties, the Court shall order the Collector of Stamp Duties to pay to the appellant—  
(a) the amount of stamp 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.

(7) Where the National Court's assessment is greater than the assessment of the Collector of Stamp Duties, the Court shall order the appellant to pay to the Collector of Stamp Duties—  
(a) the amount of stamp duty or penalty by which the Court's assessment exceeds the amount paid by the appellant; and  
(b) the costs incurred by the Collector of Stamp Duties in relation to the appeal.

## ***Stamp Duties Act***

(8) Where the National Court's assessment is the same as the assessment of the Collector of Stamp Duties, the Court shall order the appellant to pay to the Collector of Stamp Duties the costs incurred by the Collector of Stamp Duties in relation to the appeal.

### **22. Assessment to include penalty.**

For the purposes of Sections 20 and 21, the assessment of the Collector of Stamp Duties shall include the penalty (if any) chargeable in respect of the period from the end of the period specified in Section 20(4) to the date of payment of the stamp duty and penalty.

### **23. Furnishing of abstract of instrument and evidence.**

(1) In this section, "application" includes a requirement under Section 20.

(2) Where an application with reference to an instrument is made to the Collector of Stamp Duties, he may—

(a) require the applicant to furnish to him—

(i) an abstract of the instrument; and

(ii) such evidence as he thinks necessary to show, to his satisfaction, whether all facts and circumstances affecting—

(A) the liability of the instrument to duty; or

(B) the amount of duty chargeable on the instrument,

are fully set out in precise terms in the instrument; and

(b) refuse to proceed on the application until the abstract and evidence required have been furnished.

(3) An affidavit or statutory declaration made for the purposes of this section shall not be used against the person making it in any proceedings other than—

(a) proceedings for determining the stamp duty with which the instrument to which it relates is chargeable; or

(b) a prosecution arising out of the falsity of the affidavit or declaration.

(4) A person who, without reasonable cause (proof of which is on him), refuses or fails to comply with a requirement under Subsection (2) within two months after the date of the requirement is guilty of an offence.

Penalty: A fine not exceeding K1,900.00 and, in addition, K80.00 for each day for which the refusal or failure continues.

### **24. Public officers to permit books, etc., to be inspected.**

An officer who has in his custody any books, papers or documents the inspection of which may tend—

(a) to secure the payment of stamp duty; or

## **Stamp Duties Act**

(b) to prove or lead to the discovery of a fraud or omission in relation to duty,

must, at all reasonable times and without fee, permit the Collector of Stamp Duties or, on production of the authority, an officer authorized in writing by him for the purpose, generally or in a particular case—

(c) to inspect the books, papers or documents; and

(d) to take such notes and extracts as the Collector of Stamp Duties or authorized officer thinks necessary.

Penalty: A fine of not less than K650.00 and not exceeding K6,500.00.

### **25. Access to books, etc.**

The Collector of Stamp Duties, or an officer authorized by him in that behalf, shall at all times have full and free access to all buildings, places, books, documents and other papers for any of the purposes of this Act, and for that purpose may seize, retain and remove for inspection or make extracts from or copies of any such books, documents or papers.

(2) The occupier of a building or place entered or proposed to be entered by the Collector of Stamp Duties, or by an officer authorized by him under Subsection (1), shall provide the Collector of Stamp Duties or the officer with all reasonable facilities and assistance for the effective exercise of powers under this section.

(3) A person who—

- (a) refuses or fails to comply with a requirement made on him under this section; or
- (b) delays or obstructs the Collector of Stamp Duties or an officer authorized by him under Subsection (1),

is guilty of an offence.

Penalty: A fine of not less than K650.00 and not exceeding K6,500.00.

### **25A. Collector of stamp duties may obtain information and evidence.**

(1) The Collector of Stamp Duties may, by notice in writing, require a person, whether liable to duty or not, including a person employed in the Public Service or by an authority constituted by or under a law of Papua New Guinea—

(a) to furnish the Collector of Stamp Duties with such information as he may require; and

(b) to attend and give evidence before the Collector of Stamp Duties or any officer authorized by the Collector of Stamp Duties in that behalf concerning his or any other person's liability to stamp duty, and may require him to produce all books, documents and other papers in his custody or under his control relating to that transaction or assessment.

## **Stamp Duties Act**

(2) The Collector of Stamp Duties may require the information or evidence to be given on oath, and either verbally or in writing, and for that purpose he or the officer so authorized by him may administer an oath.

(3) The Regulations may prescribe scales of expenses to be allowed to persons required under this section to attend.

(4) A person, who refuses or fails to comply with a requirement made to him under this section, is guilty of an offence.

Penalty: A fine of not less than K650.00 and not exceeding K6,500.00.

(5) The provisions of this section shall apply notwithstanding the provisions of any other law.

### **26. Enrolment, etc., of unstamped instrument.**

A person who is charged with a duty to enrol, register or enter an instrument in or on a roll, book or record and who enrolls, registers or enters an instrument that is not duly stamped is guilty of an offence.

Penalty: A fine of not less than K650.00 and not exceeding K6,500.00.

### **27. Denoting of stamp duties.**

(1) Subject to this Act, stamp duty may be denoted by adhesive stamps or by impressed stamps, or partly by adhesive and partly by impressed stamps.

(2) Except as otherwise expressly provided in this Act, an instrument shall not be stamped with an adhesive stamp unless the stamp is affixed before or at the time when the instrument is first executed.

### **28. Cancellation of adhesive stamps.**

(1) Subject to this Act, where the whole or part of an amount of stamp duty is denoted by an adhesive stamp, the adhesive stamp shall be cancelled by the person by whom the instrument is first executed when he executes the instrument.

(2) An instrument, stamp duty on which is permitted or required to be denoted wholly or partly by an adhesive stamp, shall not be deemed to have been stamped with an adhesive stamp unless—

(a) the person required to cancel the adhesive stamp has cancelled it by writing on or across the stamp—

(i) his name or initials, or the name or initials of his firm; and

(ii) the true date of his so writing,

in such manner as to—

(iii) cancel the stamp effectually; and

## **Stamp Duties Act**

- (iv) make it incapable of being used on another instrument; or
  - (b) it is proved that the stamp appearing on the instrument was affixed at the time when the instrument was first executed.
- (3) A person who is required by this Act to cancel an adhesive stamp shall cancel the adhesive stamp in the manner prescribed by Subsection (2) and at the time at which he is required by that subsection to cancel it.

### **29. Certification of payment of duty, etc.**

- (1) The Collector of Stamp Duties, or an officer authorized by the Collector of Stamp Duties for the purpose by notice in the National Gazette, may endorse on an instrument that may be stamped after it has been executed a certificate that the stamp duty specified in the certificate has been paid.
- (2) Notwithstanding this Act, an instrument endorsed under Subsection (1) is as valid and effectual for all purposes as if it bore an impressed stamp of the value of the stamp duty specified in the certificate.
- (3) Where an instrument is required or permitted by this Act to be stamped with a stamp, a certificate of the Collector of Stamp Duties endorsed on the instrument shall be deemed to have the same effect.

Division 2.— Bills of Exchange and Promissory Notes. [Repealed]

Division 3.—Transfers on Sale of Real Property.

### **36. Duty on transfers.**

- (1) Stamp duty on a transfer on sale of real property shall be denoted by an impressed stamp.
- (2) An agreement by which the purchaser seeks to relieve himself from liability for the stamp duty on a transfer on sale of real property is ineffective—
- (a) to relieve him from the liability; or
  - (b) to impose on another person a liability for the duty, or an obligation—
    - (i) to recoup the purchaser; or
    - (ii) to indemnify him; or
    - (iii) to keep him indemnified,against the payment of the duty or any part of the duty.

### **37. Certain instruments deemed to be transfers on sale.**

## **Stamp Duties Act**

- (1) A lease for land—
- (a) for which a consideration other than the rent received is paid or agreed to be paid; and
  - (b) in which a covenant or agreement for the transfer or sale of real property is expressed or implied,

shall be deemed to be and is chargeable with stamp duty as a transfer on sale of real property to the lessee.

(2) Where, under this section, a lease has been charged with duty as a transfer on sale of real property, no duty is chargeable on a transfer made subsequently in accordance with the lease.

- (3) An instrument by which the right or interest of a person—
- (a) under the will of a deceased person disposing of real property; or
  - (b) in or under the estate of a deceased person comprising real property,

is conveyed for valuable consideration (otherwise than by way of security) shall, notwithstanding that the will or estate has not been fully administered, be deemed to be a transfer on sale of real property, and stamp duty is chargeable on such part of the amount or value of the consideration for the transfer as, in the opinion of the Collector of Stamp Duties, is attributable to the real property.

(4) Where property is deemed to be transferred to a purchaser by notice to the Commissioner General under Section 78A(4) of the *Income Tax Act 1959*, that notice shall be deemed to be, and is chargeable with stamp duty as, a transfer on sale of real property.

(5) Where a transfer of property has been charged with stamp duty as a transfer on sale of real property under Subsection (4), and that property is subsequently transferred to the person deemed to be the purchaser, duty chargeable on that transfer shall be reduced by the amount of duty previously paid under Subsection (4).

(6) Except as otherwise provided—

(a) a reference in this Act to real property includes a reference to goodwill or chattels, not being stock-in-trade held or used in connexion with a business carried on in connexion with the real property—

- (i) that, by reason of the sale of or agreement to transfer the real property to the transferee, is or are sold or transferred to the transferee; or
- (ii) the sale or transfer of which to the transferee forms, in the opinion of the Collector of Stamp Duties, substantially one transaction with the conveyance of the real property; and

(b) a reference in this Act to the value of real property is a reference—

- (i) in relation to a transfer on sale of the real property—
  - (A) to the sum of the consideration for the sale and the consideration for the



## **Stamp Duties Act**

transfer of chattels or the goodwill included in the real property by reason of Paragraph (a); or

(B) to the sum of the amount for which the real property and the amount for which such chattels or goodwill might reasonably have been sold if they or it had been sold, free from encumbrances, in the open market on the date of the sale,

whichever is the greater; and

(ii) in any other case, to the sum of the amount for which the real property and the amount for which such chattels or goodwill might reasonably have been sold if they or it had been sold free from encumbrances, in the open market on the date of the conveyance, direction, consent or application; and

(c) . . . [Repealed]

### **38. Transfer subject to mortgage, etc.**

(1) Where real property is transferred to a person subject certainly or contingently to the payment or transfer of money or a marketable security, whether or not it is or constitutes a charge or encumbrance on the property, the money or marketable security shall be deemed to be the whole or part of the consideration in respect of the value of which the transfer is chargeable with stamp duty.

(2) Where real property is transferred to a person in consideration, wholly or in part, of a debt due to him, the debt shall be deemed to be consideration for the property transferred, and the transfer is chargeable with the same stamp duty as a transfer on sale of real property for the same consideration.

### **39. Consideration payable in instalments.**

(1) Where the consideration, or a part of the consideration, for a transfer on sale of real property consists of money payable periodically—

(a) for a definite period, so that the total amount to be paid can be previously ascertained—the transfer is chargeable with stamp duty on the total amount of the consideration; or

(b) in perpetuity, or for an indefinite period not terminable with life—the transfer is chargeable with stamp duty on the total amount of the consideration that will or may be payable during the period of 20 years after the date on which the instrument was first executed; or

(c) during a life or lives—the transfer is chargeable with stamp duty on the total amount of the consideration that will or may be payable during the period of 12 years after the date on which the instrument was first executed.

(2) A transfer on sale of real property that is chargeable with stamp duty in respect of periodical payments, and that contains provision for securing the periodical payments, is not chargeable with duty in respect of that provision, and any separate instrument made for the purpose of securing the periodical payments is, to the extent that it is made for that purpose, not

## ***Stamp Duties Act***

chargeable with duty.

### **40. Re-transfers.**

Where real property has been transferred from a vendor to a purchaser under the terms of a contract for the sale and purchase of the real property and, by reason of cancellation of the contract, the real property is transferred back to the vendor by the purchaser, the transfer from the vendor to the purchaser and from the purchaser to the vendor are each chargeable with duty as a transfer on sale of real property.

### **41. Payment of duty on certain instruments.**

Subject to Section 48C where real property that is contracted to be sold for one consideration for the whole is conveyed to the purchaser in separate parts or parcels by different instruments—

- (a) the consideration shall be apportioned in such manner as the parties think proper; and
- (b) the consideration for each part or parcel shall be shown in the instrument relating to that part or parcel; and
- (c) each instrument is chargeable with stamp duty in respect of the consideration shown in it.

(2) Where real property is contracted to be purchased for one consideration by two or more persons jointly, or by a person for himself and others or wholly for others, and is transferred in parts or parcels, and for distinct parts of the consideration, by separate instruments to the persons by or for whom the property was purchased—

- (a) the consideration for each part or parcel shall be shown in the instrument relating to that part or parcel; and
- (b) each instrument is chargeable with stamp duty in respect of the consideration shown in it.

(3) Where part only of real property that is contracted to be sold for one consideration is conveyed by an instrument—

- (a) a consideration shall be shown in the instrument that bears the same proportion to the total consideration as the value of the real property transferred by the instrument bears to the value of the whole of the real property contracted to be sold; and
- (b) the instrument is chargeable with stamp duty in respect of the consideration shown in it.

### **42. Sale of annuity or right not previously in existence.**

Where, on the sale of an annuity or other right not previously in existence, the annuity or other right—

- (a) is not created by grant or transfer; but
- (b) is secured by bond, warrant of attorney, covenant, contract or otherwise,

the bond or other instrument, or all the instruments if there are more than one, shall, for the purposes of this Part, be deemed to be a transfer or transfers on sale of real property and, subject

## **Stamp Duties Act**

to Section 43, is or are chargeable with stamp duty accordingly.

### **43. Principal instruments.**

(1) Subject to this section, where the completion of a purchaser's title to any real property depends on two or more instruments each such instrument is chargeable with stamp duty as a transfer on sale of real property.

(2) With the approval of the Collector of Stamp Duties, the parties may decide that one of the instruments referred to in Subsection (1) shall be treated as the principal instrument, and, on the approval being given—

(a) the principal instrument is chargeable with stamp duty as a transfer on sale of real property; and

(b) each of the other instruments is chargeable with duty of an amount of K1.00.

### **44. Duty on exchange of real property.**

(1) Where real property is exchanged for other real property, each of the instruments of transfer that relates to real property in the country is chargeable, as a transfer on sale of real property, with stamp duty on the value of the real property transferred.

(2) Where—

(a) real property is exchanged for the interest of a lessee under a lease of real property; or

(b) the interest of a lessee under a lease of real property is exchanged for the interest of a lessee under another lease of real property,

each of the instruments of transfer is chargeable, as a transfer on sale of real property, with stamp duty on the value of the real property or leasehold interest in the country transferred by the instrument.

### **45. Instrument executed to evade duty.**

A mortgage, lease or other instrument executed in order, directly or indirectly, to avoid or to evade the payment of the stamp duty or any part of the stamp duty chargeable on a transfer on sale of real property is void except where the mortgage, lease or other instrument has been transferred to a third party and duly stamped as a transfer on sale of real property.

### **46. Agreement for transfer on sale.**

(1) For the purposes of this section, “agreement” includes an instrument that has the effect of—

(a) vesting in any person a right to a transfer on sale of real property; or

(b) conferring on any person an indefinitely continuing right to occupy any real property;

## **Stamp Duties Act**

or

(c) creating an absolute right to use real property.

(2) An agreement for the exchange of any real property for any other real property shall, for the purposes of this Act, be deemed to be an agreement for the transfer on sale of the real property to be exchanged.

(3) An agreement for the transfer on sale of any real property in the country is chargeable with the same ad valorem stamp duty to be paid by the purchaser or person to whom the property is agreed to be transferred as if it were a transfer on sale of the real property agreed to be transferred or sold, and shall be stamped accordingly.

(4) Where an agreement for the transfer on sale or exchange of any real property is constituted or evidenced by two or more instruments, it is sufficient if any one of the instruments is duly stamped.

(5) Where an agreement has been duly stamped in accordance with this section, the transfer executed in pursuance of the agreement is not chargeable with ad valorem stamp duty, but is chargeable with the duty that would, but for this section, have been payable on the agreement.

(6) Subject to Section 47, on application, and on production of a transfer on sale of real property and of the agreement or agreements leading to the transfer, duly stamped, the Collector of Stamp Duties shall mark the transfer as duly stamped.

(7) Where the full amount on which ad valorem stamp duty is payable cannot be immediately ascertained, duty may be paid on so much (if any) of the amount as is ascertainable, and the agreement may be stamped accordingly and marked "interim stamp only".

(8) An agreement stamped under Subsection (7) is admissible in evidence for the sole purpose of proceedings to enforce specific performance or to enforce damages for the breach of the agreement.

(9) Where an agreement has been stamped under Subsection (7), Section 90 applies to the agreement, and on payment of the balance of the duty and the penalty (if any) assessed by the Collector of Stamp Duties the agreement shall be—

- (a) stamped with the amount of the balance and penalty; and
- (b) marked as duly stamped.

### **47. Subsales.**

(1) For the purposes of this section, "agreement" includes an instrument that has the effect of vesting in a person the right to a transfer on sale of real property.

(2) Where—

- (a) any real property in the country is sold, but not transferred, to a person; and
- (b) the whole or any part of the property is subsequently subsold to another person or other persons in succession as subpurchasers,

the agreement affecting each sale or subsale is chargeable with ad valorem stamp duty as if it were a transfer on sale of real property to the purchaser and each subpurchaser from his

## **Stamp Duties Act**

immediate vendor.

(3) Where any stamp duty payable on an agreement that is chargeable under Subsection (2) is not paid, the amount of the unpaid duty, together with any penalty payable, shall be paid as an additional duty on the transfer to the ultimate purchaser.

(4) Where the agreements effecting a sale and subsales of any real property in the country have been duly stamped with *ad valorem* duty in conformity with this section, the transfer on sale of the property by the original vendor to the ultimate purchaser—

(a) is not chargeable with *ad valorem* stamp duty; but

(b) is chargeable with the duty that, but for this section and Section 46, would have been payable on the original agreement for sale.

(5) On application, and on production of the transfer and the agreements leading to the transfer, duly stamped, the Collector of Stamp Duties shall mark the transfer as duly stamped.

(6) Where a vendor of any real property in the country transfers the whole or any part of the property by direction or agreement, written or oral, to a person other than the original purchaser, or to the original purchasers in shares other than those in which they purchased the property, the transfer on sale of the property by the original vendor to the ultimate purchaser—

(a) shall set out the consideration for every direction or agreement, written or oral, leading to the transfer; and

(b) is chargeable with additional stamp duty equal to the *ad valorem* duty that would have been payable if each of the directions or agreements had been an actual transfer on sale of the property.

(7) Subsection (6) does not apply where each of the directions or agreements has been duly stamped in accordance with this section.

(8) Notwithstanding any stipulation to the contrary, the ultimate purchaser is entitled to deduct any additional duty payable under Subsection (3) or (6) (other than the duty on the agreement of subsale to himself) from any consideration payable by him under his agreement of purchase.

(9) Where, in relation to an agreement of subsale or a transfer on sale referred to in Subsection (2) or (6), the full amount on which *ad valorem* stamp duty is payable cannot be immediately ascertained, duty may be paid on so much (if any) of the amount as is ascertainable, and the agreement or transfer may be stamped accordingly and marked “interim stamp only”, and, when so stamped, is admissible in evidence.

(10) Where an agreement or a transfer on sale of real property has been stamped under Subsection (9), Section 90 applies to the agreement or transfer, and on payment of the balance of the duty and the penalty (if any) assessed by the Collector of Stamp Duties the agreement or transfer shall be—

(a) stamped with the amount of the balance and penalty; and

(b) marked as duly stamped.

### **48. Rescission or annulment of agreement.**

## **Stamp Duties Act**

- (1) Where an agreement referred to in Section 46 or 47 is rescinded or annulled, the ad valorem stamp duty paid on the agreement shall, subject to the delivery to the Collector of Stamp Duties of the instrument in which payment was denoted, and subject to this section, be refunded by the Collector of Stamp Duties to the party to the agreement by whom or on whose behalf the duty was paid, or to his executors, administrators or assigns.
- (2) An application for a refund under Subsection (1) shall be made within three months of the agreement being rescinded or annulled.
- (3) Subject to Subsection (4), the amount of any stamp duty, other than ad valorem duty, to which the agreement is liable, together with 5% of the ad valorem duty or K2.00, whichever is the less, shall be deducted from the amount of a refund under Subsection (1).
- (4) Where the agreement is rescinded or annulled by reason of the Government's refusing or withholding its consent to it, there shall be deducted from the amount of refund under Subsection (1), instead of the deduction to be made under Subsection (3), the amount of stamp duty that, but for Sections 46 and 47, would be payable on the agreement.
- (5) This section does not apply where the purchaser or a person claiming under him has entered into possession of, or has attorned tenant of, the property.
- (6) This section does not apply unless the Collector of Stamp Duties is satisfied that the agreement has not been rescinded or annulled only to avoid the stamp duty on a sale or subsale of the property.

### **Division 3A.—Transactions otherwise than by dutiable instruments.**

#### **48A. Transactions to which this division applies.**

- (1) This Division applies to a transaction, on or after 1 January 1989 which causes or results in a change in the beneficial ownership of an estate or interest in—
  - (a) land situated in Papua New Guinea; or
  - (b) chattels situated in Papua New Guinea, being chattels sold or conveyed with real property in Papua New Guinea; or
  - (c) the goodwill in Papua New Guinea of a business carried on in Papua New Guinea; or
  - (d) a lease of land situated in Papua New Guinea; or
  - (e) an interest in a partnership, insofar as the interest relates to property of the partnership, being property of the kind referred to in Paragraph (a), (b), (c), (d) or (f) or prescribed, or of a class prescribed, for the purposes of this subsection; or
  - (f) shares or rights to shares of a corporation incorporated in Papua New Guinea or of a corporation incorporated outside Papua New Guinea and which are registered on a register of members of the corporation kept in Papua New Guinea; or
  - (g) property prescribed, or of a class prescribed, for the purpose of this subsection.
- (2) A reference to a change in beneficial ownership in Subsection (1) does not include a reference to a change in beneficial ownership occurring as a consequence of—

## **Stamp Duties Act**

- (a) the appointment of a receiver or trustee in bankruptcy; or
  - (b) the appointment of a liquidator; or
  
  - (c) the making of a compromise or arrangement under the *Companies Act 1997* which has been approved by the court; or
  - (d) the issue or redemption of units in a unit trust scheme; or
  - (e) the surrender of a lease; or
  - (f) the transfer or conveyance of any estate or interest in property as a security; or
  - (g) the release or termination of an option for the purchase of property.
- (3) This Division does not apply to a transaction or property which is prescribed, or is of a class prescribed, for the purposes of this subsection.

### **48B. Payment of duty on statements in absence of dutiable instruments.**

(1) In this section, “a statement” means a statement lodged in pursuance of Subsections (2) or (3).

(2) A person, being party to a transaction to which this Division applies which is not effected or evidenced by an instrument chargeable with *ad valorem* duty in accordance with the Schedule under—

- (a) the Item “Transfers of Marketable Securities”; or
- (b) the Item “Conveyance or Transfers on Sale of Real Property”; or
- (c) any other Item whereby duty is charged as on a conveyance of property,

shall, if the person would have been liable to pay any such *ad valorem* duty in respect of the transaction had such an instrument been executed, lodge with the Collector of Stamp Duties a statement in respect of the transaction.

(3) A person, resident in Papua New Guinea, who is a party to a transaction—

- (a) which causes or results in a change in the beneficial ownership of an estate or interest in the shares of a corporation incorporated in Papua New Guinea which are registered on a register of members of the corporation kept outside Papua New Guinea; and
- (b) which is not effected or evidenced by an instrument which is chargeable with stamp duty (or duty of a like nature) in accordance with the law of the place at which the register is kept,

shall lodge with the Collector of Stamp Duties a statement in respect of the transaction.

(4) A statement shall be lodged within two months after the change in beneficial ownership which is caused by or results from the transaction.

(5) A statement shall be in a form approved by the Collector of Stamp Duties.

(6) A statement shall, for the purposes of this Act, be deemed to be an instrument effecting the transaction to which it relates and is chargeable with the *ad valorem* duty referred to in Subsection (2) appropriate to the transaction.

(7) A statement shall, for the purposes of this Act, be deemed to have been first executed on the date on which the change in beneficial ownership occurs.

## **Stamp Duties Act**

- (8) The *ad valorem* duty with which a statement is chargeable shall be charged on—
- (a) the unencumbered value of the property the subject of the transaction as at the date on which the change in beneficial ownership occurs; or
  - (b) the amount of the consideration in respect of the transaction,

whichever is the greater, and shall be paid at the time of lodgement of the statement with the Collector of Stamp Duties by the person required to lodge the statement.

### **48C. Splitting of transactions.**

- (1) If—
- (a) two or more transactions to which this Division applies; or
  - (b) at least one transaction to which this Division applies and at least one instrument liable to *ad valorem* duty under this Act,

are entered into or executed, as the case may be—

- (c) in relation to separate parts of, or separate estates or interests in, any property; and
- (d) between the same parties or between one party and other parties, where the other parties are not at arm's length from each other; and
- (e) within, or apparently within, a period of twelve months of each other,

the transactions or the transactions and instruments, as the case requires, shall, unless the Collector of Stamp Duties is satisfied that it would not be just and reasonable in the circumstances, be deemed to constitute a single transaction relating to the whole of the property concerned and *ad valorem* duty shall be chargeable on—

- (f) the unencumbered value of the whole of that property as at the date on which the change in beneficial ownership occurs; or
- (g) the total amount of the consideration in respect of the whole of that property,

whichever is the greater.

- (2) If *ad valorem* duty has been paid in respect of a transaction or instrument referred to in Subsection (1), the duty payable under that subsection shall be reduced by the amount of duty so paid.

### **48D. Effect of execution of dutiable instruments.**

- (1) An instrument executed for the purpose of effecting or evidencing or apparently for the purpose of effecting or evidencing a transaction to which this Division applies, being a transaction in respect of which a statement has been duly stamped in accordance with Section 48B, is not chargeable with duty under this Act to the extent to which duty has been paid on the statement.

- (2) A conveyance made in conformity with an instrument or statement referred to in Subsection (1) shall be chargeable with duty of K1.00.

- (3) If, within two months after a change in beneficial ownership occurs as the result of a transaction to which this Division applies, an instrument chargeable with *ad valorem* duty (not being a statement under Section 48B) is executed for the purpose of effecting or evidencing or



## **Stamp Duties Act**

apparently for the purpose of effecting or evidencing the transaction, Section 48B ceases to apply to the transaction.

(4) For the purposes of Section 18, an instrument referred to in Subsection (3) shall be deemed to have been first executed on the date on which the change in beneficial ownership occurs.

### **48E. Aiding and abetting.**

A person who—

- (a) directly or indirectly, aids, abets, counsels or procures another person to enter into a transaction to which this Division applies; or
- (b) is, in any way, by act or omission, directly or indirectly concerned in, or party to, the entry by another person into a transaction to which this Division applies,

knowing or believing that the other person does not intend to lodge a statement under Section 48B and pay duty in accordance with this Division in respect of the transaction, is guilty of an offence.

Penalty: A fine of not less than K650.00 and not exceeding K6,500.00.

### **48F. Offences relating to statements.**

- (1) A person who, in respect of a transaction to which this Division applies—
- (a) fails or refuses to lodge a statement under Section 48B within six months after the date on which a change in beneficial ownership occurs as a result of the transaction; or
  - (b) lodges a statement under Section 48B which is false or misleading in a material particular,

is guilty of an offence.

Penalty: A fine of not less than K650.00 and not exceeding K6,500.00.

- (2) Proceedings for an offence under this Section—
- (a) may be instituted at any time; and
  - (b) may be disposed of in a court of competent jurisdiction.

## **Division 4.—Partitions and Divisions of Real Property and Leases.**

### **49. Partition or division.**

(1) Where, on the partition or division of real property in the country or of the interest of a lessee under a lease relating to land in the country, a consideration is paid or given, or agreed to be paid or given, the principal or only instrument by which the partition or division is effected is chargeable with stamp duty as a transfer on sale of real property for that consideration.

**Stamp Duties Act**

(2) Where in a case referred to in Subsection (1) there are two or more instruments for completing the title of either party, Section 43, with the necessary modifications, applies.

(3) Duty chargeable under this section shall be denoted by an impressed stamp.

**Division 5.—Leases and Agreements for Leases.**

**50. Duty on lease or assignment of lease.**

Stamp duty on a lease, or an assignment of a lease, shall be denoted by an impressed stamp.

**50A3. Requirements before stamping of lease agreement for real property.**

Notwithstanding anything in this Division, a lease document relating to real property shall not be stamped unless the taxpayer identification number of the owner of the real property, as issued by the Commissioner General of the Internal Revenue Commission, is cited in the lease document.

**51. Duty on agreement for lease.**

Where an agreement for a lease has been duly stamped, a lease made in accordance with the terms of, and for the purpose of giving effect to, the agreement is not chargeable with stamp duty as a lease.

**52. Leases for indefinite term or rent, options, etc.**

(1)xi Where, by reason of a provision in a lease, the tenancy (however described as to term) is, subject to the provisions of the lease, to continue for a specified period of 12 months or more, or until a specified time 12 months or more after the commencement of the lease, the lease shall, for the purposes of this Act, be deemed to be a lease for a definite term ending at the termination of that period or at that time, as the case may be.

(2) Where a lease of goods or a lease or other document providing for the tenancy or occupancy of land provides for the payment of a rental that can be ascertained but may be varied during the term of the lease or of the tenancy or occupancy (including a term as extended through the operation of this section), the instrument is chargeable with stamp duty having regard to such variations in the rental as are made during such term.

(3) Where a variation is calculated in whole or in part in accordance with increases in a Consumer Price Index or some other measure of inflation, such increases shall be deemed to be 5% per annum.

(4) Where a person holds an instrument to which Subsection (2) applies in respect of which a variation in the rental whereby the rent has increased has occurred during the 12 months

## **Stamp Duties Act**

immediately preceding 1 June in any year during which such instrument has been in force, the person shall lodge such instrument with the Collector of Stamp Duties for stamping together with a statement of the amount of the increase and the date on which the variation took place.

(5) Where a lease of land or a lease of goods contains an option to renew or extend the lease or for a further lease to be granted the term of the lease shall be deemed to be equal to the total of the terms of the lease and the term of any renewal, extension or further lease over which an option may be exercised.

### **53. Charges in respect of produce, etc.**

(1) Where the consideration, or part of the consideration, for a lease consists of produce or other goods, the lease is chargeable with stamp duty as if the amount in money that is the value of the produce or other goods were payable as rent.

(2) Where the lease provides that—

(a) the value of any produce or goods specified in Subsection (1) is to amount at least to, or is not to exceed, a specified sum; or

(b) the lessee shall or may pay according to a specified permanent rate of conversion, the value of the produce or goods shall be estimated at the specified sum or according to the permanent rate, as the case requires.

(3) Where the consideration for a lease is or includes a consideration of the kind specified in Subsection (1), and the lease—

(a) contains a statement of the value of the consideration; and

(b) is stamped in accordance with the statement,

the lease shall be deemed to be duly stamped until the statement of the value of the consideration is shown to be incorrect.

### **54. Instrument of lease, etc., relating also to other matters.**

(1) Where an instrument by which a lease is granted or agreed to be granted, or is assigned, relates in part also to the grant of or agreement to grant, or to the assignment of, other rights or interests, stamp duty is chargeable on such part of the amount or value of the consideration as, having regard to the nature and term of the lease and the nature of the other rights or interests, is attributable to the grant of or agreement to grant, or to the assignment of, the lease.

(2) The Collector of Stamp Duties may assess the stamp duty with which, in his opinion, an instrument specified in Subsection (1) is chargeable, and this Act applies in respect of any such assessment as if it were made under Section 20 on a requirement for an expression of opinion under that section.

### **55. Refund of part of duty on early determination.**

Where—

## **Stamp Duties Act**

- (a) stamp duty has been paid on a lease—
  - (i) for a definite term of not less than two years; or
  - (ii) for a term extended by the operation of Section 52(5); and
- (b) the lease is surrendered, forfeited or otherwise determined before the expiration of the full term (including such a term as extended by the operation of Section 52(5)) in respect of which duty was paid,

the Collector of Stamp Duties shall, on application to him within three months after the determination, and on the delivery to him of the instrument on which payment of duty was denoted, refund to the person who paid the duty (the lessorlessee or assignorassignee as the case may be) the difference between the stamp duty paid and the stamp duty that would have been payable if the lease had been expressed to expire at the date of the determination.

### **55A. Rescission or annulmentxii of mining or petroleum leases or interests.**

- (1) Where an agreement relating to the conveyance or transfer of a mining or petroleum lease, tenement, permit, licence or other similar interest (“the mining or petroleum lease or interest”) is rescinded or annulled, the *ad valorem* stamp duty paid on the agreement shall, subject to the delivery to the Collector of Stamp Duties of the instrument on which payment was denoted and subject to this section, be refunded by the Collector of Stamp Duties to the party to the agreement by whom or on whose behalf the duty was paid, or to his executors, administrators or assigns.
- (2) An application for a refund under Subsection (1) shall be made within three months of the agreement being rescinded or annulled.
- (3) An amount, being the greater of K10.00 and 5% of the duty paid, shall be deducted from the amount of a refund under Subsection (1).
- (4) This section does not apply unless the Collector of Stamp Duties is satisfied that the agreement has not been rescinded or annulled only to avoid the stamp duty on conveyance or transfer of the mining or petroleum lease or interest.

### **55B. Rescission or annulmentxiii of transfer of a Land use entitlement marketable security.**

- (1) Where an agreement relating to the transfer of a land use entitlement marketable security is rescinded or annulled, the *ad valorem* stamp duty paid on the agreement shall, subject to the delivery to the Collector of Stamp Duties of the instrument on which payment was denoted and subject to this section, be refunded by the Collector of Stamp Duties to the party to the agreement by whom or on whose behalf the duty was paid, or to his executors, administrators or assigns.
- (2) An application for a refund under Subsection (1) shall be made within three months of the agreement being rescinded or annulled.
- (3) An amount being the lesser of K2.00 or 5% of the duty paid, shall be deducted from the

## **Stamp Duties Act**

amount of refund under Subsection (1).

(4) This section does not apply unless the Collector of Stamp Duties is satisfied that the agreement has not been rescinded or annulled only to avoid the stamp duty on transfer of land use entitlement marketable security.

### **56. Directions as to duty in certain cases.**

(1) A lease is not chargeable with stamp duty—  
(a) in respect of a penal rent, or an increased rate in the nature of a penal rent, reserved or agreed to be reserved or made payable; or  
(b) by reason of the lease being made in consideration of the surrender or abandonment of an existing lease of or relating to the same subject-matter.

(2) A lease made for a consideration in respect of which it is chargeable with stamp duty and in further consideration—  
(a) of a covenant by the lessee to make, or of his having previously made, a substantial improvement of, or addition to, the property demised; or  
(b) of a covenant relating to the matter of the lease,

is not chargeable with stamp duty in respect of the further consideration.

(3) An instrument by which the rent reserved by another instrument chargeable with stamp duty and duly stamped as a lease is increased is chargeable with stamp duty as a lease in consideration of the additional rent made payable, and not otherwise.

### **57. Separate instruments.**

(1) Subject to this section, where several instruments are executed for the purpose of effecting a lease of the same property each of the instruments is chargeable with stamp duty as a lease.

(2) With the approval of the Collector of Stamp Duties, the parties may decide that one of the instruments referred to in Subsection (1) shall be treated as the principal instrument, and on the approval being given—

(a) the principal instrument is chargeable with stamp duty as a lease; and

(b) each of the other instruments is chargeable with duty of an amount of K1.00.

### **57A. Leases of goods.**

A lease of goods shall be dutiable at the rate set forth in the Schedule and denoted by an impressed stamp.

**Division 6.—Bills of Lading.**

**Stamp Duties Act**

**58. Stamping of bills of lading after execution.**

- (1) A bill of lading, or an instrument given in place of a bill of lading, must not be stamped after its execution.
- (2) A person who makes, executes or transfers a bill of lading that is not duly stamped is guilty of an offence.

Penalty: A fine not exceeding K1,300.00.

**Division 6A.—Certain Credit Transactions.**

**58A. Preparation of original instruments.**

- (1) A person who is—
  - (a) the owner under a hire purchase agreement; or
  - (b) the vendor under a credit purchase agreement; or
  - (c) the lender under a credit arrangement,shall, at or before the time of the making of such an agreement or arrangement prepare an original instrument in respect of that agreement or arrangement.
- (2) An original instrument prepared pursuant to Subsection (1) shall—
  - (a) state the full names and addresses of the parties to the instrument; and
  - (b) contain a description of the goods to which the instrument relates; and
  - (c) state the date on which the instrument is executed; and
  - (d) state the terms for which the instrument is to have effect; and
  - (e) [There is no paragraph (e) in the Act]
  - (f) contain such other particulars as the Collector of Stamp Duties may require; and
  - (g) be stamped as required by this Act.
- (3) Where a credit arrangement or credit purchase agreement is for a term of indefinite duration, that term shall, for the purposes of Subsection (2)(d), be deemed to be a term of two years.
- (4) A person who fails to comply with the provisions of this section is guilty of an offence.

Penalty: A fine of not less than K650.00 and not exceeding K6,500.00.

**58B. Duty payable by certain persons in certain cases.**

- Notwithstanding any other provisions of this Act, where a person who is—
- (a) the owner under a hire-purchase agreement; or
  - (b) the vendor under a credit purchase agreement; or
  - (c) the lender under a credit arrangement,

## **Stamp Duties Act**

is not bound by the provisions of this Act, the duty payable in respect of the instrument constituting, or evidencing the terms and conditions of, the agreement or arrangement shall be paid—

- (d) in the case of a hire-purchase agreement, by the hirer; and
- (e) in the case of a credit purchase agreement, by the purchaser; and
- (f) in the case of a credit arrangement, by the borrower.

### **58C. Duplicates or copies of original instrument not subject to duty.**

Duty is not payable in respect of a duplicate or a copy of an original instrument made pursuant to Section 58A if that instrument is duly stamped in accordance with the provisions of this Act.

## **Division 7.—Deeds of Settlement and Deeds of Gift.**

### **59. Duty on settlements and gifts.**

Stamp duty in respect of a deed of settlement or a deed of gift shall be—

- (a) paid within two months after the day on which the instrument was first executed; and
- (b) denoted by an impressed stamp,

and is in addition to the duty (if any) with which it is chargeable under any Act imposing duty on the estates of deceased persons.

### **60. Default. [Repealed]**

### **61. Deeds of settlement or gift.**

(1) For the purposes of this Act, an instrument, whether revocable or not, and whether made voluntarily or for good or valuable consideration (other than for a bona fide adequate pecuniary consideration), by which—

- (a) property is settled or agreed to be settled; or
- (b) the person executing the instrument is to hold in trust, for a person mentioned in the instrument, property vested in himself otherwise than by way of a religious, charitable or educational trust; or
- (c) a trust, created orally, is acknowledged, evidenced or recorded by the creator of the trust or by the trustee, where duty would have been chargeable by the virtue of this section had the trust been originally created by instrument,

is a deed of settlement.

(2) For the purposes of this Act, but subject to Subsection (4)—

- (a) an instrument by which property is—
  - (i) given or agreed to be given; or

## **Stamp Duties Act**

- (ii) directed to be given or to be allotted; or
  - (iii) transferred or agreed to be transferred,  
otherwise than for valuable consideration not less in amount or value than the value of the property, is a deed of gift; and
- (b) the value of the gift is the value of the property or, where there is valuable consideration, the amount by which the value of the property exceeds the amount or value of the consideration.
- (3) The liability of an instrument to stamp duty as a deed of gift does not affect the liability of the instrument to stamp duty as a transfer on sale of real property, or otherwise, based on the amount or value of the consideration.
- (4) Where the Collector of Stamp Duties is satisfied that the amount or value of the consideration expressed in an instrument referred to in Subsection (2)—
- (a) was agreed to as representing the true market value of the property given or agreed to be given, directed to be given or to be allotted, or transferred or agreed to be transferred, by the instrument; and
  - (b) is not less than 50% of the value of the property,
- the instrument shall not be deemed to be a deed of gift for the purposes of this Act, and for the purposes of assessing stamp duty on it every direct or indirect reference in the Schedule to the amount or value of consideration in relation to the assessment of duty shall be deemed to be a reference to the value of the property.

### **62. Several instruments constituting deeds.**

- (1) Subject to this section, where several instruments, if combined, would constitute a deed of settlement or deed of gift of the same property, each of those instruments is chargeable with stamp duty as a deed of settlement or deed of gift.
- (2) With the approval of the Collector of Stamp Duties, the settlor or donor may decide that one of the instruments shall be treated as the principal instrument, and, on the approval being given—
- (a) the principal instrument is chargeable with stamp duty as a deed of settlement or deed of gift; and
  - (b) each of the other instruments is chargeable with stamp duty of an amount of K5.00.
- (3) Where a deed of settlement or deed of gift is made in pursuance of a previous agreement, on which the stamp duty payable on a deed of settlement or deed of gift has been paid in respect of the same property, the deed is not chargeable with duty as a deed of settlement or deed of gift.

### **63. Instruments in favour of objects of certain powers of appointment.**

Where a person is named or described as the object of a power of appointment—



## **Stamp Duties Act**

- (a) in a deed of settlement or deed of gift in respect of which stamp duty has been paid;  
or
- (b) 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 him is not chargeable with duty as a deed of settlement or deed of gift.

### **64. Deduction of mortgage debt on assessment of duty.**

(1) Where the property comprised in a deed of settlement or deed of gift is subject to a mortgage debt or certain charge (annual or otherwise) created before the execution of the deed of settlement or deed of gift, the value of the property for the purposes of this Division is its value after deducting the amount of the mortgage debt or charge, but the taking over of liability for the debt or charge shall not be regarded as consideration.

(2) A deduction under Subsection (1) shall not be made unless the deed of settlement or deed of gift is expressly made subject to the mortgage debt or charge and the amount or nature of the debt is stated in the deed.

(3) Where a charge consists of money payable periodically (whether for a definite or indefinite period, in perpetuity or during a life or lives), the amount of the charge in respect of which a deduction may be made under this section shall be calculated in the manner provided by Section 39 in the case of the consideration on a transfer on sale of such property payable periodically.

(4) Where a mortgage debt or charge is secured on property comprised in a deed of settlement or deed of gift together with other property not comprised in the deed, the deduction that may be made under this section is that part of the amount of the mortgage debt or charge that bears to the whole amount the same proportion as the amount or value of the property comprised in the deed bears to the amount or value of the whole property on which the mortgage debt or charge is secured.

### **65. Production of deeds and statements of particulars.**

The Collector of Stamp Duties may refuse to accept payment of stamp duty on a deed of settlement or deed of gift unless—

- (a) the settlor or donor, the trustee or a person acquiring an estate or interest in property under the deed; or
- (b) where any such person is a corporation—a person acting on behalf of the corporation,

has produced to him—

- (c) the deed; and
- (d) a statement, verified by statutory declaration, setting out particulars of the property comprised in the deed and the estimated value of the property.

## **Stamp Duties Act**

### **66. Assessments on deeds.**

For the purpose of enabling him to assess the amount of stamp duty chargeable on a deed of settlement or deed of gift, the Collector of Stamp Duties may—

- (a) cause a valuation of the property to be made by a person appointed by him; and
- (b) require the person producing the deed to pay for the valuation; and
- (c) hear and receive evidence on oath; and
- (d) by summons under his hand, require a person to appear before him, on a date and at a time and place specified in the summons, to give evidence and to produce all material books, papers and instruments (if any) in his custody, possession or control; and
- (e) administer an oath to a person summoned to appear before him; and
- (f) examine on oath a person summoned to appear before him.

### **67. Failure to appear, etc.**

A person who has been summoned to appear before the Collector of Stamp Duties under Section 66 and who—

- (a) refuses or fails to appear or to produce any books, papers and instruments in obedience to the summons; or
- (b) refuses to be sworn; or
- (c) refuses or fails to answer truthfully a question put to him by the Collector of Stamp Duties,

is guilty of an offence.

Penalty: A fine of not less than K650.00 and not exceeding K6,500.00.

## **Division 8.—Companies.**

### **68. Company constitutions.**

- (1) In this section, “the Registrar of Companies” means the Registrar of Companies or a Deputy Registrar of Companies appointed under the *Companies Act 1997*.
- (2) A company constitution adopted under Part V of the *Companies Act 1997* shall not be accepted by the Registrar of Companies unless it is duly stamped.
- (3) Notwithstanding any other Act, the Registrar of Companies shall not issue a certificate of incorporation or registration unless the stamp duty chargeable in respect of the certificate has been paid.

**Stamp Duties Act**

**68A. Company reconstructions.**

(1) The Collector of Stamp Duties may approve an instrument or instruments to be exempt from stamp duty where it is shown to his satisfaction that the instrument or instruments relate to the transfer of property in a corporate reconstruction in the following circumstances:—

(a) upon the liquidation of a wholly owned subsidiary and the *in specie* distribution of the property by the parent company to another wholly owned subsidiary; or

(b) upon the transfer of property from a wholly owned subsidiary to another wholly owned subsidiary or to the parent company; or

(ba) upon the transfer of property from a parent company to a wholly owned subsidiary; or

(c) upon the transfer of property from an amalgamating company to an amalgamatedxiv company under a qualifying amalgamation.

(2) Subject to Paragraph (b), an instrument is not exempt under this section—

(a) where—

(i) the corporate reconstruction involves transfer of property between subsidiaries of a parent company, unless the subsidiaries are at least 95% owned by the parent company and have been so owned for at least three years prior to the date of application for exemption, or since the date of incorporation where the subsidiary is less than three years old; or

(ii) the corporate reconstruction involves the transfer of property from a subsidiary company or from a parent company, unless the subsidiary company is at least 95% owned by the parent company and has been so owned for at least three years prior to the date of application for exemption, or since the date of incorporation where the subsidiary is less than three years old; or

(iii) any person who controls at least 20% of the issued capital or voting rights of the ultimata parent company has not held a minimum of 20% of the issued capital or voting rights for at least three years prior to the date of application for exemption; and

(b) where, in the opinion of the Commissioner, within the three year period referred to in Paragraph (a), stamp duty has been paid in full on the acquisition of assets owned by a company it is intended to amalgamate, or on the acquisition of company shares it is intended to amalgamate, the Commissioner may direct that Paragraph (a) shall not have any application; and

(c) unless the Commissioner General gives a certificate in writing stating that in his opinion, the conveyance does not have the purpose or effect of avoiding or delaying the payment of any tax under the *Income Tax Act 1959*.

(3) Where it is proposed that the company should be party to an instrument to be made to give effect to a scheme that may attract the application to Subsection (1) any person acting on behalf of the company may, before the instrument is made, apply to the Collector for his

## **Stamp Duties Act**

determination whether the instrument, if made, would be exempt from the payment of stamp duty as prescribed by that section or would be outside the purview and application of those provisions.

- (4) An application under Subsection (3) shall—
- (a) be in writing; and
  - (b) accurately and fully disclose the scheme to effect which the instrument is to be made; and
  - (c) be accompanied by written evidence in detail of such matters as are relevant to the making of the determination sought.
- (5) A determination made by the Collector under Subsection (3) shall be binding upon him and all other persons concerned except where the instrument, the subject of the determination, or scheme to effect which the instrument is made, differs in any material particular from the details furnished to the Collector with or in connection with the relevant application.
- (6) The Collector may call for the production to him of such evidence as he requires for the determination of any matter of which he is to be satisfied for the purpose of this section and, if so called by the Collector, such evidence shall be furnished by way of statutory declaration made under oath or declaration.
- (7) Where a claim under this Section for exemption has been allowed and—
- (a) it is subsequently discovered that any declaration or other evidence furnished in support of the claim was untrue in a material particular; or
  - (b) if the transferor or transferee cease to qualify for the exemption within five years after the date on and from which the conveyance, transfer or assignment in question operated,
- the claim shall be deemed to be disallowed and an amount equal to the duty remitted shall become payable forthwith upon discovery or, as the case may be, cessation and may be recovered from any court of competent jurisdiction from the transferor or transferee as a debt due to the State together with interest thereon at the rate of 10% per annum for the period commencing on the date the instrument in question was made and continuing until payment of the amount is made.
- (8) For the purposes of this section, the terms “amalgamating company” “amalgamated company” and “qualifying amalgamation” are as defined in the *Income Tax 1959*.

### **Division 9.—Transfers of Marketable Securities and Directions as to Certain Shares.**

#### **69. Application of Division 9.**

This Division does not apply to or in respect of a sale or purchase to which Division 10 applies.

#### **70. Transfers of marketable securities and rights in respect of shares.**

## **Stamp Duties Act**

(1) Stamp duty in respect of a transfer of a marketable security or right to the issue of shares shall be denoted by an impressed stamp.

(2) . . . [Repealed]

(3) . . . [Repealed]

(4) Notwithstanding this section, a transfer of a marketable security or right to the issue of shares may be stamped with adhesive stamps in such circumstances and subject to such conditions as the Collector of Stamp Duties thinks proper.

### **71. Unstamped transfers of shares.**

(1) A corporation or society must not register, record or enter in its books in the country a transfer of a marketable security or right to the issue of shares that is chargeable with stamp duty (other than a transfer of a marketable security or right to the issue of shares on a branch register situated outside the country) until a duly stamped instrument of transfer is delivered to it.

(2) A corporation or society that registers, records or enters an instrument of transfer referred to in Subsection (1) must retain the instrument in the country for a period of three years after the registration, recording or entering, as the case may be.

Penalty: A fine of not less than K650.00 and not exceeding K6,500.00.

### **72. Title of transferee.**

The right or title of a transferee or subsequent holder of a marketable security or right to the issue of shares is not invalidated by reason only of the fact that the transfer of the security or right was registered, recorded or entered in the books of the corporation or society in contravention of Section 71.

### **73. Issue or allotment of shares by direction.**

(1) A corporation or society that becomes the purchaser of property on terms that the consideration for the purchase is to be satisfied, in whole or in part, by the issue or allotment of shares in the corporation or society, whether to the vendor of the property or to another person, must not issue or allot a share in the corporation or society, in or towards satisfaction of the consideration, to a person other than the vendor, except on a duly stamped written direction by the vendor.

Penalty: A fine of not less than K650.00 and not exceeding K6,500.00.

(2) A corporation or society that is under an obligation to a person to issue or allot shares in the corporation or society to him, or at his direction, or to another person, must not issue or allot a share in the corporation or society, in or towards satisfaction of the obligation, to a person other

## **Stamp Duties Act**

than the obligee, except on a duly stamped written direction by the obligee.

Penalty: A fine of not less than K650.00 and not exceeding K6,500.00.

- (3) Stamp duty in respect of a direction referred to in Subsection (1) or (2) shall be denoted by an impressed stamp.
- (4) This section does not extend to the issue or allotment of shares to the trustee or legal personal representative of the vendor or obligee, as the case may be.
- (5) Where a corporation or society is convicted of issuing or allotting a share in contravention of this section, the court may order the corporation or society to pay, in addition to any other penalty, an amount equal to the duty that would have been paid on a duly stamped written direction for the issue or allotment of the share.

### **73A. Issue or allotment of shares by direction.**

An allotment of shares for a consideration or payment consisting of an interest in land shall be dutiable.

### **73B. Agreement for transfer of marketable securities and real property.**

- (1) For the purposes of this Section, “agreement” includes an instrument that has the effect of vesting in any person a right to a transfer of a marketable security.
- (2) An agreement for the exchange of any marketable security for any other marketable security shall, for the purposes of this Act, be deemed to be an agreement for the transfer of the marketable security to be exchanged.
- (3) An agreement for the transfer of a marketable security is chargeable with the same ad valorem stamp duty to be paid by the purchaser or person to whom the property is agreed to be transferred as if it were a transfer of the marketable security agreed to be transferred or sold, and shall be stamped accordingly.
- (4) Where an agreement for the transfer on sale or exchange of any marketable security is constituted or evidenced by two or more instruments, it is sufficient if any one of the instruments is duly stamped.
- (5) Where an agreement has been duly stamped in accordance with this section, the transfer executed in pursuance of the agreement is not chargeable with ad valorem stamp duty, but is chargeable with the duty that would, but for this section, have been payable on the agreement.
- (6) On application, and on production of a transfer on sale of marketable security and of the agreement or agreements leading to the transfer, duly stamped, the Collector of Stamp Duties shall mark the transfer as duly stamped.
- (7) Where the full amount on which ad valorem stamp duty is payable cannot be immediately ascertained, duty may be paid on so much (if any) of the amount as is ascertainable, and the agreement may be stamped accordingly and marked “interim stamp only.”
- (8) An agreement stamped under Subsection (7) is admissible in evidence for the sole purpose of

## **Stamp Duties Act**

proceedings to enforce specific performance or to enforce damages for the breach of the agreement.

(9) Where an agreement has been stamped under Subsection (7), Section 90 applies to the agreement, and on payment of the balance of the duty and the penalty (if any) assessed by the Collector of Stamp Duties the agreement shall be—

- (a) stamped with the amount of the balance and penalty; and
- (b) marked as duly stamped.

### **73C. Rescission or annulment of agreement.**

(1) Where an agreement referred to in Section 73B is rescinded or annulled, the ad valorem stamp duty paid on the agreement shall, subject to the delivery to the Collector of Stamp Duties of the instrument in which payment was denoted, and subject to this section, be refunded by the Collector of Stamp Duties to the party to the agreement by whom or on whose behalf the duty was paid, or to his executors, administrators or assigns.

(2) An application for a refund under subsection (1) shall be made within three months of the agreement being rescinded or annulled.

(3) The amount of any stamp duty, other than ad valorem duty, to which the agreement is liable, together with 5% of the ad valorem duty or K2.00, whichever is the lesser, shall be deducted from the amount of a refund under Subsection (1).

## **Division 10.—Duty on Sales and Purchases of Marketable Securities by Brokers.**

### **74. Interpretation of Division 10.**

(1) In this Division, unless the contrary intention appears—

”broker“ means a person or firm who or that is a stock-broker—

- (a) carrying on business as such in the country; and
- (b) a member of a prescribed stock exchange;

”broker’s agent“ means a person who—

- (a) is an agent or employee of a person or firm who or that is a broker within the meaning of a corresponding law; and
- (b) is carrying on business in the country for or on behalf of that person or firm;

”corresponding law“ means a law of a State or Territory of Australia that is declared by the Minister, by notice in the National Gazette, to be a corresponding law for the purposes of this Division;

”dealer“ means a Papua New Guinea dealer or a person who is a dealer, broker or broker’s agent within the meaning of a corresponding law;

”Papua New Guinea dealer“ means a broker or broker’s agent.

(2) This Division and the charge for stamp duty on the return referred to in this Division

## **Stamp Duties Act**

apply to, and have effect only in the case of, a sale or purchase of a marketable security or right to the issue of shares for a consideration in money or money's worth not less than the unencumbered value of the marketable security or right, and only if the marketable security or right is listed on a recognized stock exchange.

### **75. Records of sales and purchases.**

(1) Subject to Subsections (3) and (4), immediately on a sale or purchase to which this Division applies being made, or being deemed to have been made, whether within or outside the country—

- (a) in pursuance of an order lodged in the country with a Papua New Guinea dealer; or
- (b) on account of a Papua New Guinea dealer,

the dealer must make a record of the sale or purchase showing—

- (c) the date of the sale or the purchase; and
- (d) the name of the principal (if any) for whom the sale or purchase was effected; and
- (e) the name of the dealer (if any) with whom the sale or purchase was effected; and
- (f) the quantity and full description of the marketable security or right concerned; and
- (g) the selling price of the marketable security or right per unit and in total; and
- (h) the amount of stamp duty chargeable.

(2) For the purposes of Subsection (1)—

- (a) notwithstanding that an order to sell was not lodged with him, where a Papua New Guinea dealer makes a purchase, whether on his own account or on behalf of another person, from a person who is not a dealer, he shall be deemed to have made a sale in pursuance of an order to sell lodged with him in the country by the person from whom he made the purchase; and
- (b) notwithstanding that in fact an order to purchase was not lodged with him, where a Papua New Guinea dealer makes a sale, whether on his own account or on behalf of another person, to a person who is not a dealer, he shall be deemed to have made a purchase in pursuance of an order to purchase lodged with him in the country by the person to whom he made the sale.

(3) Subsection (1) does not require a Papua New Guinea dealer to make a record—

- (a) in respect of a sale that is made in pursuance of an order to sell lodged with him by or on behalf of another dealer; or
- (b) in respect of a purchase that is made in pursuance of an order to purchase lodged with him by or on behalf of another dealer.

(4) Subsection (1) does not apply to a sale or purchase of marketable securities or rights in respect of shares in such cases as are prescribed.

(5) A Papua New Guinea dealer keeping a record referred to in Subsection (1) may incorporate in the record additional information for his own use.

(6) The record must be kept in a permanent form for at least three years from the date of the sale or the purchase.



## **Stamp Duties Act**

(7) The Collector of Stamp Duties may require a Papua New Guinea dealer to keep such additional records of such sales or purchases as the Collector of Stamp Duties thinks necessary.

(8) A Papua New Guinea dealer who fails to make or keep a record referred to in Subsection (1), or such additional records as are required under Subsection (7), is guilty of an offence.

Penalty: A fine of not less than K650.00 and not exceeding K6,500.00.

(9) A Papua New Guinea dealer must, at all reasonable times, permit the Collector of Stamp Duties or an officer authorized by the Collector of Stamp Duties to enter on premises to inspect papers, records, documents and proceedings for or in relation to the sale or purchase of any marketable security or right in respect of shares to which this Division applies.

Penalty: A fine of not less than K650.00 and not exceeding K6,500.00.

### **76. Returns and payment of duty.**

(1) Not later than Thursday of each week, each Papua New Guinea dealer must—

(a) lodge with the Collector of Stamp Duties, in the prescribed form, a return in duplicate of the sales and purchases to which Section 75 applies that were made during the preceding calendar week, containing—

- (i) a certificate that the record required by that section has been duly made; and
- (ii) such other particulars as are prescribed; and

(b) pay to the Collector of Stamp Duties as stamp duty in respect of the sales and purchases included in the return an amount calculated on the total consideration for each such sale and purchase—

- (i) where the total consideration is less than K100.00—at the rate of 5t for every K25.00 or part of K25.00; and
- (ii) where the total consideration is K100.00 or more—at the rate of 20t for every K100.00 or part of K100.00,

of the sale price or the purchase price, as the case may be.

(2) Where there has not been any sale or purchase, the return to be lodged under Subsection (1) shall be a "nil" return.

(3) A Papua New Guinea dealer who—

- (a) fails to lodge a return as required by Subsection (1); or
- (b) lodges a return that is false in any material particular,

is guilty of an offence.

Penalty: A fine not exceeding K6,500.00.

## **Stamp Duties Act**

(4) In addition to any penalty under Subsection (3), a person who is guilty of an offence against that subsection is liable to pay an amount equivalent to twice the duty that would have been payable had a return been lodged in accordance with this Division.

(5) A Papua New Guinea dealer who fails to pay the duty chargeable on a return lodged by him is guilty of an offence.

Penalty: A fine not exceeding K6,500.00.

(6) In addition to any penalty under Subsection (5), a person who is guilty of an offence against that subsection is liable to pay an amount equivalent to twice the duty that was payable in accordance with this Division.

### **77. Endorsement as to stamp duty.**

(1) On recording the details of a sale or purchase in accordance with Section 75(1), or on the making of a sale or purchase to which that subsection does not apply by virtue of Section 75(4), a Papua New Guinea dealer shall—

- (a) endorse the transfer with a statement that the stamp duty (if any) has been or will be paid by him; and
- (b) affix his stamp and the date of the endorsement.

(2) A dealer who endorses a transfer under Subsection (1) before any record required under Section 75(1) is made is guilty of an offence.

Penalty: A fine not exceeding K6,500.00.

(3) On being endorsed in respect of the sale and the purchase in accordance with this section or in accordance with any corresponding law, an instrument of transfer shall be deemed to be duly stamped.

### **78. Recovery of duty.**

A dealer who pays any amount to the Collector of Stamp Duties under this Division may recover from the vendor or the purchaser for whom he has made, or is deemed to have made, the sale or purchase the amount of the stamp duty in relation to the sale or purchase, and in particular may—

- (a) retain the amount out of any moneys in his hands belonging to the vendor or the purchaser, as the case may be; or
- (b) recover the amount from the vendor or purchaser, as the case may be, as a civil debt in a court of competent jurisdiction.

### **78A. Rebate.**

Where—

- (a) a Papua New Guinea dealer makes a sale or purchase in respect of which the dealer is

## **Stamp Duties Act**

required to pay duty under this Act; and

(b) the sale or purchase is made of marketable securities situated in a State or Territory of Australia and the transaction attracts stamp duty under the law of that State or Territory,

there shall be allowed to the dealer in respect of that transaction a rebate of the stamp duty payable under this Act equal to the amount of duty paid in that State or Territory but not exceeding the amount of stamp duty payable under this Act.

### **Division 10A. - Acquisitions of interests in private Corporations.**

#### **78B. Interpretation.**

In this Division, unless the contrary intention appears—

”associated person“ means a person who is associated with another person in accordance with any of the following provisions:

- (a) persons are associated persons if they are related persons; or
- (b) individuals are associated persons if they are partners in a partnership to which the *Partnership Act* (Chapter 148) applies; or
- (c) private companies are associated persons if common shareholders have a majority interest in each private company; or
- (d) trustees are associated persons if any person is a beneficiary common to the trusts (not including a public unit trust scheme) of which they are trustees; or
- (e) a private company and a trustee are associated persons if a ”related company“ or ”related corporation“ within the meaning set out in Section 2(3) of the *Companies Act 1997* of the company is a beneficiary of the trust (not including a public unit trust scheme) of which the trustee is a trustee; and in this Division, a public company and a subsidiary of a public company are taken to be associated persons;

”discretionary trust“ means a trust under which the vesting of the whole or any part of the capital of the trust estate, or the whole or any part of the income from that capital, or both—

- (a) is required to be determined by a person either in respect of the identity of the beneficiaries, or the quantum of interest taken, or both; or
- (b) will occur if a discretion conferred under the trust is not exercised; or
- (c) has occurred but under which the whole or any part of that capital or the whole or any part of that income, or both, will be divested from the person or persons in whom it is vested if a discretion conferred under the trust is exercised;

”land“ includes mining or petroleum information;

”majority shareholder“ in relation to a private company, means—

- (a) for a company the voting shares in which are not divided into classes - a person entitled to not less than 50% of those shares, and

## **Stamp Duties Act**

- (b) for a company the voting shares in which are divided into classes - a person entitled to not less than 50% of the shares in one of those classes;
- ”private company“ means a company that is not limited by shares, or whose shares are not quoted on a stock exchange;
- ”private corporation“ means a private company or a private unit trust scheme;
- ”private unit trust scheme“ means a unit trust scheme that is not a public unit trust scheme;
- ”related person“ means a person who is related to another person in accordance with any of the following provisions:
- (a) individuals are related persons if—
    - (i) they are partners, or they have been partners and the partnership has ended (whether the partnership ended in Papua New Guinea or elsewhere); or
    - (ii) the relationship between them is that of parent and child, brothers, sisters, or brother and sister; or
  - (b) private companies are related persons where they are ”related company“ or ”related corporation“ within the meaning set out in Section 2(3) of the *Companies Act 1997*; or
  - (c) an individual and a private company are related persons if the individual is a majority shareholder or director of the company or of another private company that is a related company or related corporation under the *Companies Act 1997* of the company; or
  - (d) an individual and a trustee are related persons if the individual is a beneficiary of the trust (other than a public unit trust scheme) of which the trustee is a trustee; or
  - (e) a private company and a trustee are related persons if the company, or a majority shareholder or director of the company, is a beneficiary of the trust (other than a public unit trust scheme) of which the trustee is a trustee;
- ”stock exchange“ means the Port Moresby Stock Exchange or in a stock exchange that is a member of the Federation International des Bourses de Valuers;

### **78C. Landholding private corporation.**

In this Division, unless the contrary intention appears, a private corporation is a landholder if it holds land in Papua New Guinea.

### **78D. Landholdings of private corporations.**

(1) A reference in this division to a landholding is a reference to any interest in land other than the estate or interest of a mortgagee, chargee or other secured creditor but shall not be read as including—

- (a) such an interest in land of a private company unless the interest of the company in the land is a beneficial interest;
- or
- (b) such an interest in land of a unit trust scheme unless the interest is held by the trustees in their capacity as trustees of the scheme.

## **Stamp Duties Act**

(2) This section is in addition to, but does not limit, the operation of any provision of this part providing for constructive ownership of interests.

(3) For the purposes of this division, the vendor and the purchaser under an uncompleted agreement for the sale of land shall be taken to be separately entitled to the whole of the land.

### **78E. Constructive ownership of landholdings and other property-subsiidiaries.**

(1)<sup>4</sup> In addition to any interest in land or other property that it may hold in its own right, a private corporation shall be taken, for the purposes of this Division, to hold an interest in land or other property held by a subsidiary (other than Papua LNG Project Company) of the private corporation.

(1A)<sup>5</sup> In addition to any interest in land or other property that it may hold in its own right, a private corporation that is a shareholder in Papua LNG Project Company shall be taken, for the purposes of this division, to hold an interest in land or other property held by Papua LNG Project Company.

(2)<sup>6</sup> The value, for duty purposes, of the interest in land or other property that a private corporation is taken, in accordance with Subsections (1) or (1A), to hold by virtue of a holding of a subsidiary who is the actual landholder, or Papua LNG Project Company, is that portion of the interest's unencumbered value to which the private corporation would be entitled on a winding-up of—

- (a) the actual landholder or Papua LNG Project Company; and
- (b) every subsidiary of the private corporation that stands between the private corporation and the actual landholder in the ownership chain.

(3) For the purposes of this Division, a private company is a subsidiary of another private company if it is a subsidiary of the other private company within the meaning of Section 5(1) of the *Companies Act 1997*.

(4) For the purposes of this Division, a private company is the subsidiary of a unit trust scheme if the trustees of the scheme, in their capacities as trustees of the scheme, have a majority interest in the private company.

(5) For the purposes of this Division, a unit trust scheme is the subsidiary of a private corporation if the corporation has a majority interest in the scheme.

### **78F. Constructive ownership of landholdings and other property-discretionary trusts.**

(1) A person or a member of a class of persons in whose favour, by the terms of a discretionary trust, capital the subject of the trust may be applied—

- (a) in the event of the exercise of a power or discretion in favour of the person or class; or<sup>7</sup>
- (b) in the event that a discretion conferred under the trust is not exercised,

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<sup>4</sup> Amended by Stamp Duties (Papua LNG Project) (Amendment) Act 2019, s.1

<sup>5</sup> Inserted by Stamp Duties (Papua LNG Project) (Amendment) Act 2019, s.2

<sup>6</sup> Amended by Stamp Duties (Papua LNG Project) (Amendment) Act 2019, s.2

## **Stamp Duties Act**

is, for the purposes of this section, a beneficiary of the trust.

(2) A beneficiary of a discretionary trust shall be taken to own or to be otherwise entitled to the property the subject of the trust.

(3) For the purposes of this Division, any property that is the subject of a discretionary trust is taken to be the subject of any other discretionary trust—

(a) that is; or

(b) any trustee of which (in the capacity of trustee) is a beneficiary of it.

(4) Subsection (3) applies to property that is the subject of a discretionary trust only by the operation of that subsection.

(5) In this section a person includes a private corporation.

### **78G. Interests and majority interests in private corporations.**

(1) For the purposes of this Division, a person shall be taken to have an interest in a private corporation if the person has an entitlement other than as a creditor or other person to whom the corporation is liable, to a distribution of property from the corporation on a winding up or otherwise of the corporation.

(2) A person who, under subsection (1), is taken to have an interest in a private corporation shall be taken to have a majority interest in the corporation if the person, in the event of a distribution of all the property of the corporation immediately after the interest was acquired, would be entitled to 50% or more of the property distributed.

(3) In this section a person includes a private corporation.

### **78H. Acquiring of an interest in a landholding private corporation.**

For the purposes of this Division, an interest in a landholding private corporation may be acquired by means of—

(a) the purchase, gift, allotment or transfer of any share or unit in a private corporation;  
or<sup>44</sup>

(b) the variation, abrogation or alteration of a right attaching to any such share or unit; or

(c) the redemption, surrender or cancellation of any such share or unit; or

(d) the variation or alteration of a right of a holder of any such share or unit; or

(e) payment of a call on any such share that is partially paid-up; or

(f) by any combination of the means mentioned in Paragraphs (a), (b), (c), (d) and (e).

### **78I. Liability for duty.**

A liability for duty charged by this Division arises when a relevant acquisition is made under Section 78J.

## **Stamp Duties Act**

### **78J. Relevant acquisition<sup>7</sup>.**

For the purposes this Division, a person who—

(a) acquires an interest in a landholding private corporation:—

(i) that is of itself a majority interest in the corporation;

(ii) when aggregated with other interests in the corporation held by the person or an associated person, results in an aggregation that amounts to a majority interest in the corporation;

(iii) that is an interest in Papua LNG Project Company whether or not it is of itself a majority interest in Papua LNG Project Company, or when aggregated with other interests in Papua LNG Project Company held by the person or an associated person, results in an aggregation that amounts to a majority interest in Papua LNG Project Company; or

(b) having a majority interest, or an interest described in Paragraph (a) (ii), in a landholding private corporation (other than Papua LNG Project Company), acquires a further interest in the corporation,

shall be taken to have made a relevant acquisition.

### **78K. Acquisition statements.**

(1) A person who has made a relevant acquisition shall prepare an acquisition statement and lodge it with the Collector of Stamp Duties before the expiry of 60 working days after the date of the relevant acquisition.

(2) The acquisition statement must contain the following information—

(a) the name and address of the person who has acquired the interest; and

(b) the date of the relevant acquisition; and

(c) particulars of the interest acquired; and

(d) particulars of the total interest of the person and any associated person in the private corporation at that date; and

(e) the unencumbered value of all landholdings in Papua New Guinea of the private corporation as at the date of the relevant acquisition and as at the date of acquisition of each interest acquired in the corporation during the three years before the date of the relevant acquisition; and

(f) the unencumbered value of the property of the private corporation at the date of the relevant acquisition; and

(g) the amount of duty paid under this Act in respect of each earlier acquisition of an interest mentioned in Paragraph (e); and

(h) any other information that the Collector of Stamp Duties may require.

### **78L. Time of payment of duty.**

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<sup>7</sup> Repealed and replaced by No 28 of 2020, s.1.

## **Stamp Duties Act**

”The duty payable under this Division shall be paid within 60 working days after the liability to pay it arises.

### **78M. Liability to duty.**

- (1) Subject to Subsection (2), duty chargeable under this part is payable by the person who makes the relevant acquisition.
- (2) Where a relevant acquisition results from an aggregation of the interests of associated persons, the person who made the relevant acquisition and the associated person are jointly and severally liable for payment of the duty.

### **78N. Computation of duty payable.**

- (1) Where an acquisition statement does not disclose any acquisitions during the three years before the relevant acquisition, duty is chargeable, at the rate specified under this Act, on the amount calculated by multiplying the unencumbered value of all land holdings of the private corporation in Papua New Guinea (calculated at the date of acquisition of the interest acquired) by the proportion of that value represented by the interest acquired in the relevant acquisition.
- (2) Where an acquisition statement discloses one or more acquisitions during the three years before the relevant acquisition, duty is chargeable, at the rate specified in the Schedule, on the aggregate of amounts severally calculated, in the way provided by Subsection (1), in respect of each interest required to be disclosed in the statement.
- (3) Duty payable under this section is to be reduced by the sum of the duty paid or payable under this Act in respect of the acquisition, during the three years before the relevant acquisition, by the person or any associated person of an interest in the same private corporation, but only in proportion to the extent to which the duty paid or payable is attributable to the amount of the duty payable under this section.
- (4) Duty payable under this section is to be reduced by an amount, if any, calculated in accordance with the following formula:

$$(AB) \times C$$

Where—

- A means the unencumbered value of the landholdings in Papua New Guinea of the private corporation at the time the dutiable acquisition was made; and
- B means the unencumbered value of all property of the private corporation at that time; and
- C means the duty under this Act paid in respect of a dutiable instrument in relation to the shares or units.

### **78O. Maximisation of entitlements on distribution of property.**

- (1) This section applies to any calculation, for this Division, of the entitlement of a person (the interested person) to participate in a distribution of the property of a private corporation, whether on a winding-up of the private corporation or otherwise.



## **Stamp Duties Act**

(2) A calculation is to be made based on a distribution carried out in accordance with the constitution of the private corporation, and with any law relevant to the distribution in force at the time of distribution, and the entitlement of the interested person is to be evaluated accordingly.

(3) Following the calculation under Subsection (2), a calculation is to be made based on a distribution carried out after the interested person, and any other person whom the interested person has power to direct with respect to such a distribution or who is, in relation to the interested person, an associated person, had exercised all powers and discretions exercisable by them because of having acquired an interest in the private corporation concerned:—

- (a) to effect or compel an alteration to the constitution of the private corporation; and
- (b) to vary the rights conferred by shares or units in the private corporation; and
- (c) to effect or compel the substitution or replacement of shares or units in the private corporation with other shares or units in it; and
- (d) in such a manner as would maximise the value of the entitlement, and the entitlement of the interested person is to be evaluated accordingly.

(4) The results obtained by an evaluation of the interested person's entitlement in accordance with Subsections (2) and (3) are then to be compared, and whichever evaluation results in a greater entitlement is the correct evaluation, of the entitlement.

### **78P. Valuation of property by the collector.**

(1) The provisions of this Act that apply to the ascertainment of the value of transfers chargeable with ad valorem duty apply in the same way to an acquisition statement under this Division and the value of land holdings mentioned in it.

(2) Where any arrangement affecting the dutiable value of land holdings that was entered into within 12 months before a relevant acquisition was brought about by any person with the intention of reducing the dutiable value of the land holdings, the Collector of Stamp Duties may—

- (a) cause a valuation of the landholding to be made; and
- (b) direct the valuer to disregard the arrangement for the purposes of the valuation; and
- (c) assess duty on the basis of the valuation carried out in accordance with the direction.

### **78Q. Agreements for sale or conveyance of land.**

(1) Where—

- (a) at the time of acquisition of an interest by any person in a landholding private corporation that necessitates the lodgement of an acquisition statement under this Division, the corporation was the vendor under an uncompleted agreement for the sale or conveyance of land; and
- (b) the agreement is subsequently completed, the Collector of Stamp Duties shall assess or reassess the statement as though the land the subject of the agreement was not, at the time of the acquisition concerned, a landholding of the corporation.

(2) Where—

- (a) at the time of acquisition of an interest by any person in a landholding private

## **Stamp Duties Act**

corporation that requires the lodgement by any person of an acquisition statement under this Division, the private corporation was the purchaser under an uncompleted agreement for the sale or conveyance of land; and

(b) the agreement is subsequently rescinded, annulled or otherwise terminated without completion the Collector of Stamp Duties shall assess or reassess the statement as though the land the subject of the agreement was not, at the time of the acquisition concerned, a landholding of the corporation.

(3) In this section, a reference to a landholding private corporation includes a reference to a subsidiary of the corporation.

### ***Division 11.—Powers of Attorney.***

#### **79. Stamp duty on powers of attorney. [Repealed]**

### ***Division 12.—Policies of Insurance.***

#### **80. Composition of duty in respect of policies of insurance against accidents, etc.**

(1) Where in the opinion of the Collector of Stamp Duties a person granting policies of insurance against accident or other form of risk carries on the business of insurance in such a way as to make it impracticable or inconvenient to require that stamp duty be charged and collected on the policies, the Collector of Stamp Duties may enter into an agreement with the person for the delivery to the Collector of Stamp Duties, in a manner approved by him, of an account of details of cover granted under the policies.

(2) An account delivered in accordance with an agreement under Subsection (1) shall be a full and true account of—

- (a) details of cover granted under all unstamped policies of insurance covered by the agreement during the period for which the account is rendered; and
- (b) all cover not already accounted for granted under any such unstamped policies of insurance at any time before the commencement of that period.

(3) After an agreement has been entered into under Subsection (1), and during the period for which the agreement is in force, a policy of insurance granted, whether before or after the commencement of the agreement, by the person concerned and covered by the agreement, is not chargeable with stamp duty, but instead of, and by way of composition for, that duty there shall be charged, levied and collected on each amount of cover from time to time granted under the policy stamp duty at the rate set out in Schedule 1.

(3A) An account under this section shall relate to a calendar month and shall be delivered to the Collector of Stamp Duties on or before the 14th day of the next succeeding calendar month.

## **Stamp Duties Act**

- (4) The duty shall be paid on the delivery of the account.
- (5) For the purposes of Section 18, the period of two months referred to in that section shall be deemed to expire, in relation to duty paid on the delivery of an account, on the date that the account is required to be delivered under Subsection (3A) and the periods of four and six months referred to in that section shall be deemed to expire two and four months respectively after that date.
- (6) Where duty is paid in respect of an account under this section, the duty shall be denoted by an impressed stamp on the account.

### **Division 13.—Memoranda of Agreement.**

#### **81. Stamp duty on memoranda of agreement.**

- (1) Subject to Subsection (2), stamp duty on a memorandum of agreement shall be denoted by an impressed stamp.
- (2) In such cases and subject to such conditions as are determined by the Collector of Stamp Duties, duty on a memorandum of agreement may be denoted by an adhesive stamp.

### **Division 14.—Betting Tickets.**

#### **81A. Stamp duty on betting tickets. (Repealed by No.51 of 2016)**

### **Division 15.—Lotteries.**

#### **81B. Duty on lottery tickets.**

- (1) In this section—  
“lottery” means any drawing, sweep, lottery or game for a prize (other than an exempted lottery);  
“exempted lottery” means any lottery which is prescribed by regulation or otherwise certified in writing by the Collector of Stamp Duties not to be a lottery for the purposes of this section;  
“promoter” means the person responsible for the promotion and licensed by law to operate a lottery;  
“ticket” means any ticket, coupon or other document evidencing that the holder thereof has acquired a share in a lottery.
- (2) There shall be charged, levied, collected, and paid stamp duty for and in respect of each lottery ticket issued and paid by means of cash, bonds, inscribed stock or other negotiable

## **Stamp Duties Act**

instrument at the rate or the amount as prescribed in the Schedule.

- (3) The stamp duty on a lottery ticket shall be denoted by an impressed stamp or such other mark or embossment or notation as is specified by the Collector of Stamp Duties from time to time having regard to the type and form of the lottery.
- (4) No later than the 15th day of each calendar month a promoter shall furnish to the Collector of Stamp Duties a return showing the number of lottery tickets issued by the promoter during the preceding month.
- (5) Stamp duty on such issue of tickets shown in the return referred to in Subsection (4) and calculated at the rate or otherwise in the amount prescribed shall be paid by the promoter at the time of lodgment of the return.
- (6) The Collector of Stamp Duties may in his discretion prescribe by regulation the extent to which the amount of stamp duty paid by a promoter on a lottery ticket may be charged by the promoter to and recovered from the purchaser of a lottery ticket.
- (7) Until regulation is made prescribing the form, Form 4 (with the necessary adjustments) prescribed in the Schedule to the *Stamp Duties Regulation* (Chapter 117) may be utilised for the purposes of this section.

### **Division 16.—Debits tax.**

#### **81CA. Definitions.**

In this Division—

“account” means an account held with a financial institution, being an account to which payments by the institution to an account holder, or persons nominated by the account holder, may be debited, whether electronically or by cheque, bill of exchange payable on demand or payment order;

“exempt debit” means a debit made to an account kept with a financial institution where—

- (a) a person who would be entitled, by virtue of any other law of Papua New Guinea, to exemption from the debits tax, being a debit made in respect to a transaction not related to activities that constitute the carrying on of a business in Papua New Guinea; or
- (b) the debit is made to an account held by a government of a country other than Papua New Guinea; or
- (c) the debit is made by another financial institution, to the extent the debit relates to a banking business carried on by that institution; or
- (d) the debit is made by that financial institution and is—
  - (i) made in the country by bankers solely for the purpose of settling or clearing accounts; or
  - (ii) made for accommodation purposes between two financial institutions; or

## **Stamp Duties Act**

- (e) the debit is made by a charity or non-profit organization exempt from income tax under the provision of the *Income Tax Act 1959*; or
  - (f) the debit is made to an account that is denominated in a currency other than Kina or Toea;
  - (g) the debit results from the conversion of a term deposit into a further term deposit to an account within that financial institution held by the owner of the term deposit;
  - (h) the debit is the reversal, by the financial institutions, of a debit or credit made incorrectly;
  - (i) the debit relates to the payment of debits tax or interest withholding tax;
- “financial institution” means the Bank of Papua New Guinea or a bank or licensed financial institution licensed under the *Banks and Financial Institutions Act 2000*;
- “taxable debit” means a debit (other than an exempt debit) made to an account.

### **81CB. Stamp duty payable.**

There shall be charged, levied, collected and paid a stamp duty, in this Division referred to as a ‘debits tax’, on each taxable debit, as follows—

- (a) where the debit in question is less than K50.00, the debits tax shall be nil;
- (b) where the debit is between K50.00 and K100.00, the debits tax shall be one toea;
- (c) where the debit is between K100.00 and K125,000.00, the debits tax shall be 0.01% of the debit, rounded up to the nearest toea; and
- (d) where the debit is K125,000.00 or a greater amount, the debits tax shall be K12.50.

### **81CC. Recovery of debits tax by financial institutions.**

A financial institution may charge to and recover from the holder of an account any amount of debits tax it is liable to pay in respect of transactions, chargeable with debits tax under this Division, in that account.

### **81CD. Lodgement of returns.**

Not later than the 14th day of each month, each financial institution shall—

- (a) lodge with the Collector of Stamp Duties, a return in a form approved by the Commissioner General, showing—
  - (i) the total amount of taxable debits made to accounts held in that financial institution during the previous calendar month; and
  - (ii) the amount of debits tax payable on those debits; and
  - (iii) such other particulars as are prescribed; and
- (b) pay to the Collector of Stamp Duties the amount of debits tax charged in the previous calendar month.

### **81CE. Offence.**

## **Stamp Duties Act**

A financial institution which—

- (a) fails to lodge a return as required under Section 81CD; or
- (b) lodges a return that is false in any particular; or
- (c) fails to charge debits tax as required under Section 81CB; or
- (d) fails to pay the debits tax as required under Section 81CD,

is guilty of an offence.

Penalty: A fine of not less than K5,000.00 and not exceeding K10,000.00.

### **81CF. Additional tax for offence.**

(1) In addition to any penalty under Section 81CE, where an amount remains unpaid after the expiration of the time provided for payment under this section, additional duty of the greater of—

- (a) K120.00; or
- (b) an amount equal to 10% of the amount of the unpaid duty for each 30 day period or part thereof for which the return remains unpaid,

calculated from the date the return is required to be lodged.

(2) Amounts payable under this section are not recoverable from the holder of an account.

### **81CG. Collector may recover debits tax.**

The Collector of Stamp Duties may recover, in any Court of competent jurisdiction, any amount of unpaid debits tax.

## **Division 17 - PNG LNG Project.**

### **81DA. Interpretation.**

In this Division:—

- “LNG Project” has the meaning given in the PNG LNG Gas Agreement; and
- “PNG LNG Gas Agreement” has the meaning given in Section 4(1) of the *Income Tax Act* 1959.

### **81DB. LNG Project transfers.**

Notwithstanding any other provisions of this Act, the stamp duty on transfers referred to in Clause 13.9 of the PNG LNG Gas Agreement shall be an amount of K5,000.00.

### **81DC. LNG Project loans or securities.**

Notwithstanding any other provision of this Act, loans, securities and other forms of financing referred to in Clause 13.9 of the PNG LNG Gas Agreement shall be exempt from stamp duty.

## Division 18 - Papua LNG Project.<sup>8</sup>

### **81E. Papua LNG Project Transfers**

Notwithstanding any other provision of this Act, each transaction or series of transactions referred to in Clause 14.4 of the Papua LNG Gas Agreement, and any instrument that gives effect to any such transaction or series of such transactions, to the extent it so gives effect shall be exempt from stamp duty.

## **PART IV.—COLLECTION OF FEES BY STAMPS.**

### **82. Payment of fees by stamps.**

The Minister may, by notice in the National Gazette—

- (a) direct that fees or sums payable to the State, or to an officer, in respect of any matter or thing to be done or performed under a law specified in the notice, shall be payable by stamps on the documents involved or used in relation to the matter or thing; and
- (b) specify whether impressed or adhesive stamps are to be used.

### **83. Certain documents not properly stamped.**

- (1) Subject to Section 84, a document that, under Section 82, should be stamped is invalid unless and until it is properly stamped.
- (2) In any proceedings other than criminal proceedings, a document that ought to be, but is not, properly stamped under this Part shall not be used, and a Judge, Magistrate Grade IV., warden or justice shall not allow such a document to be used, whether or not objection is taken to its being used, until it has been properly stamped.

### **84. Stamping of documents not properly stamped.**

- (1) Where, through mistake or inadvertence, a document that ought to have been properly stamped under this Part has not been stamped, if a Judge, Magistrate Grade IV., warden or justice thinks fit he may order that it be stamped with stamps of such amounts, beyond the fee due, as he thinks reasonable, but not exceeding five times the amount of the stamp that should have been impressed or affixed on the document.
- (2) A document stamped in accordance with an order under Subsection (1), and any proceedings relative to any such document, is as valid as if the document had been properly stamped in the first instance.

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<sup>8</sup> Inserted by No 14 of 2019, s.4

**Stamp Duties Act**

**85. Officers to see that stamps are attached.**

An officer whose duty it is to do an act in relation to which a fee or sum is payable by stamps under this Part—

- (a) shall not do the act unless there is attached to the appropriate document a stamp of a value not less than the fee or sum of money payable; and
- (b) when an adhesive stamp is used, shall immediately cancel the stamp by writing, stamping or impressing in ink on the stamp his name or initials and the date, in such a manner as effectually to obliterate and cancel the stamp.

**86. Issuing, etc., documents not stamped.**

A person who, without lawful excuse (proof of which is on him)—

- (a) files, issues, receives, procures or delivers a document not properly stamped as required by this Part; or
- (b) serves or executes a writ, rule, order or document not properly stamped as required by this Part; or
- (c) does, or permits to be done, an act, matter or thing in relation to which a fee or sum of money is required to be paid by stamps in accordance with this Part unless the appropriate document is properly stamped in accordance with this Part; or
- (d) fails to obliterate and cancel a stamp as required by Section 85(b),

is guilty of an offence.

Penalty: A fine not exceeding K1,300.00.

**87. Saving of other powers to alter fees.**

This Part does not affect any authority conferred by an Act on any person or authority to fix, alter, or remit, wholly or in part, a fee or sum of money payable under the Act.

**PART V.—MISCELLANEOUS.**

**88. Fraudulently removing, selling, etc., stamps.**

A person who—

- (a) fraudulently removes or causes to be removed from an instrument an adhesive stamp affixed to the instrument; or
- (b) affixes to an instrument an adhesive stamp knowing it to have been fraudulently removed from an instrument; or
- (c) sells or offers for sale an adhesive stamp knowing it to have been fraudulently removed from an instrument; or
- (d) utters an instrument knowing it to have affixed to it a stamp that has been fraudulently removed from an instrument; or



## **Stamp Duties Act**

(e) does, uses or is concerned in a fraudulent act, contrivance or device with intent to defraud the State of stamp duty,  
is guilty of an offence.

Penalty: A fine not exceeding K2,600.00.

### **89. Remission of penalties.**

(1) Notwithstanding this Act, if the Collector of Stamp Duties thinks fit he may remit the whole or any part of a penalty incurred under this Act.

(2) When a penalty incurred under this Act has been paid or remitted wholly or in part, and the instrument in respect of which the penalty was incurred has been duly stamped, the Collector of Stamp Duties shall denote the payment of the penalty, or if the penalty has been remitted, wholly or in part, the extent of the remission, by an appropriate stamp, or by a certificate signed by him, on the instrument.

(3) In this section, “penalty” includes interest.

### **90. Retention of instruments not duly stamped.**

(1) The Collector of Stamp Duties may retain an instrument that—  
(a) comes into his custody, possession or control; and  
(b) is chargeable with stamp duty; and  
(c) is not duly stamped,

until the duty and penalty (if any) chargeable in respect of it are paid.

(2) The Collector of Stamp Duties may assess the amount of stamp duty and penalty (if any) that, in his opinion, are chargeable in respect of an instrument referred to in Subsection (1).

(3) Where the Collector of Stamp Duties assesses stamp duty under Subsection (1), this Act applies in respect of the assessment as though it had been made under Section 20.

### **91. Refunds of duty in certain cases.**

(1) Where—  
(a) an instrument is made non-effective by reason of the failure of a party to execute the instrument; and  
(b) stamp duty on the instrument has been paid,

the Collector of Stamp Duties may, on application by or on behalf of the person who has paid the

## **Stamp Duties Act**

duty, pay to him an amount equal to the amount of the duty.

- (2) Subject to such conditions as the Collector of Stamp Duties thinks proper, on application by a person who has paid for—
- (a) an unused stamp or unused stamped material; or
  - (b) a stamp or stamped material that has been inadvertently spoiled or rendered useless,
- the Collector of Stamp Duties may give to him, in place of the stamp or material, an amount in money, or a stamp or material bearing a stamp, to the value, less 5% of the unused stamp or stamped material.

### **92. Agreements to evade duty.**

A contract or agreement, oral or written, the purpose or effect of which is to avoid or evade this Act, is void.

### **93. Right to refund of duty.**

- (1) Unless the Collector of Stamp Duties otherwise determines, where a person is entitled to a refund of stamp duty the right to the refund lapses unless the person entitled makes application to the Collector of Stamp Duties for the refund within 12 months after payment of the duty.
- (2) Subsection (1) does not apply where special provision is made in this Act for the period within which a refund may be claimed.

### **93A. Printing and selling duty stamps.**

- (1) The Regulations may authorize a person to act as agent for the State for printing and selling duty stamps and collecting stamp duties on such terms and conditions as are prescribed.
- (2) An agent authorized to print and sell duty stamps under the Regulations shall—
- (a) by the 21 day of the month succeeding the month in which duty stamps were sold and stamp duty collected by the agent, pay to the Commissioner General the amount of stamp duty collected; and
  - (b) be liable to a late payment penalty at the rate of 20% per annum in respect of payments received after the due date specified in Paragraph (a); and
  - (c) provide to the Commissioner General, at the end of each financial year, a reconciliation of total sales for the year to total payments made.

### **94. Regulations.**

- (1) The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for—

## **Stamp Duties Act**

(a) empowering the Collector of Stamp Duties to authorize, on such terms and conditions as he thinks proper, a person to imprint stamps or have stamps imprinted on forms of instruments of any prescribed class; and

(b) prescribing penalties of fines not exceeding K500.00 for offences against the regulations.

(2) An instrument on which a stamp has been imprinted in accordance with the regulations shall be deemed to be duly stamped.

### **95. Substituted service, etc.**

(1) The Collector of Stamp Duties may, without the leave of the Court, serve any notice or any process in proceedings against any person for failure to comply with any provision of this Act, by posting the notice, process or a sealed copy of the process to that person at the last known business address or place of abode of that person in Papua New Guinea.

(2) In any action, prosecution or other proceedings in any court by or against the Collector of Stamp Duties, the Collector of Stamp Duties may appear personally or be represented by a lawyer or duly authorized officer of the Public Service.

(3) The appearance of a duly authorized officer of the Public Service in any proceedings and a statement by him that he appears by the authority of the Collector of Stamp Duties is sufficient evidence of that authority.

### **96. Refund Set-off.**

Where the Collector of Stamp Duties is required or authorized under Sections 13A(6), 48(1), 55, 55A(1), 91(1) and any other section of this Act to make a refund of any stamp duty, the Collector of Stamp Duties shall apply or credit this amount of the stamp duty refund to any income tax or withholding tax or salary or wages tax or customs duty or excise duty or any other tax or duty charged, levied or imposed under any revenue legislation administered by the Commissioner General that is payable by the taxpayer.

## **PART VI. - ABOLITION OF CERTAIN STAMP DUTIES.**

### **97. Abolition of duty on mortgages.**

(1) Section 7 of the Principal Act does not apply to an instrument executed on or after 1 January 2008.

(2) Item 1 of Schedule 1 of the Principal Act does not apply to an instrument executed on or after 1 January 2008.

## **Stamp Duties Act**

(3) Item 1A of Schedule 1 of the Principal Act does not apply in respect of an instrument executed on or after 1 January 2008.

(4) Subsections (1), (2) and (3) of this section do not apply in respect of an instrument executed on or after 1 January 2008 if the instrument was made or entered into pursuant to another arrangement, made before 1 January 2008, the only or main purpose of which was to defer the transaction until 1 January 2008, or later, so that stamp duty would not be chargeable under this Act on the transaction.

### **98. Abolition of duty on bills of lading.**

(1) Section 58 of the Principal Act does not apply to instruments executed on or after 1 January 2008.

(2) Item 3 of Schedule 1 of the Principal Act does not apply to instruments executed on or after 1 January 2008.

### **99 Abolition of duty on certain credit transactions.**

(1) Section 58A of the Principal Act does not apply to transactions entered into or instruments executed on or after 1 January 2008.

(2) Section 58B of the Principal Act does not apply to transactions entered into or instruments executed on or after 1 January 2008.

(3) Section 58C of the Principal Act does not apply to transactions entered into or instruments executed on or after 1 January 2008.

(4) Item 1B of Schedule 1 of the principal Act does not apply to transactions entered into on or after 1 January 2008.

(5) Item 1C of Schedule 1 of the Principal Act does not apply to transactions entered into on or after 1 January 2008.

(6) Subsections (1), (2), (3), (4) and (5) of this section do not apply in respect of a transaction entered into or an instrument executed on or after 1 January 2008 if the instrument was executed or the transaction was entered into pursuant to another arrangement, made before 1 January 2008, the only or main purpose of which was to defer the transaction until 1 January 2008, or later, so that stamp duty would not be chargeable under this Act on the transaction.

### **100. Abolition of duty on company constitutions.**

(1) Section 68 of the Principal Act does not apply on or after 1 January 2008.

(2) Item 4 of Schedule 1 of the Principal Act does not apply on or after 1 January 2008.

### **101. Abolition of duty on policies of insurance.**

(1) Section 80 of the Principal Act does not apply on or after 1 April 2008.

(2) Item 12 of Schedule 1 of the Principal Act does not apply on or after 1 April 2008.

**Stamp Duties Act**

**102. Abolition of duty on memoranda of agreement.**

(1) Section 81 of the Principal Act does not apply to instruments executed on or after 1 January 2008.

(2) Item 6 of Schedule 1 of the Principal Act does not apply to instruments executed on or after 1 January 2008.

**103. Abolition of debits tax.**

(1) Section 81CA of the Principal Act does not apply on or after 1 April 2008.

(2) Section 81CB of the Principal Act does not apply on or after 1 April 2008.

(3) Section 81CC of the Principal Act does not apply on or after 1 April 2008.

(4) Section 81CD of the Principal Act does not apply on or after 1 April 2008.

(5) Section 81CE of the Principal Act does not apply on or after 1 April 2008.

(6) Section 81CF of the Principal Act does not apply on or after 1 April 2008.

Schedule 1.—Rates of Stamp Duty

SCHEDULE 1.

Sec. 5.

**RATES OF DUTY.**

**Nature of instrument.**

**Amount of stamp duty.**

K

1. AGREEMENT OR CONTRACTS FOR LOAN  
WHETHER UNDER SEAL OR HAND ONLY

10.00 or an amount equal to 0.1 per cent of the principal, whichever is the greater.

Duty is payable by the parties, or any one or more of them.

*Exemptions—*

(1) Agreements or contracts for loan where the lender is a Savings and Loans Society or a bank licensed under the *Banks and Financial Institutions Act 2000* and the principal is an amount not exceeding K4,000.00

(2) Agreements or contracts for loan where the borrower is an agricultural stabilization fund or a bank acting on behalf of such a fund.

(3) Agreements or contracts for loan where the purpose of the loan is to finance purchase of a home in Papua New Guinea and neither the Papua New Guinea citizen borrower nor the spouse of the Papua New Guinea citizen borrower has previously owned or

**Stamp Duties Act**

purchased a home.

(4) . . . [Repealed].

(5) Instruments used only for liquidity management purposes between commercial banks licensed under the *Banks and Financial Institution Act* (Chapter 137), or liquidity management purposes between commercial banks and the Bank of Papua New Guinea through any Advance or Deposit Facility or other liquidity management facility operated by the Bank of Papua New Guinea.

For the purposes of this item of exemption the expression “**liquidity management purposes**” shall mean any inter-bank loan transactions not exceeding a maturity period of 182 days.

(6) Bills, bonds, inscribed stock, debentures, deposit receipts and other securities issued by the Government of the State, and coupons or interest warrants issued in connection with any such bills, bonds, stock, debentures, deposit receipts or other securities, and any transfer of, or documents relating to, the purchase or sale of any such bills, bonds, stock, debentures, deposit receipts or other securities.

1A. LOAN SECURITIES, MORTGAGES AND  
FOREIGN SECURITIES WHETHER UNDER  
SEAL OR HAND ONLY

10.00 or an amount equal to 0.1 per  
cent of the principal, whichever is  
the greater

Duty is payable by the parties, or any one or more of them.

*Exemptions—*

(1) An instrument executed for the purpose of securing a loan that is exempt under Item 1.

(2) Agreements or contracts for loan where the purpose of the loan is to finance purchase of a home in Papua New Guinea and neither the Papua New Guinea citizen borrower nor the spouse of the Papua New Guinea citizen borrower has previously owned or purchased a home.

(3) . . . [Repealed].

(4) Bills, bonds, inscribed stock, debentures, deposit receipts and other securities issued by the Government of the State, and coupons or interest warrants issued in connection with any such bills, bonds, stock, debentures, deposit receipts or other securities, and any transfer of, or documents relating to, the purchase or sale of any such bills, bonds, stock, debentures, deposit receipts or other securities.

(5) Instruments used only for liquidity management purposes between commercial banks licensed under the *Banks and Financial Institutions Act* 2000, or liquidity management purposes between commercial banks and the Bank of Papua New Guinea through any

**Stamp Duties Act**

Advance or Deposit Facility or other liquidity management facility operated by the Bank of Papua New Guinea.

For the purpose of this item of Exemption, the expression “**liquidity management purposes**” shall mean any inter-bank loan transactions not exceeding a maturity period of 182 days.

1B. CREDIT ARRANGEMENTS. 20.00

Duty is payable by the parties or any one or more of them.

1C. HIRE PURCHASE AGREEMENTS AND CREDIT PURCHASE AGREEMENTS. 20.00

Duty is payable by the parties, or any one or more of them.

2. BILLS OF EXCHANGE OR PROMISSORY NOTES [Repealed]

3. BILLS OF LADING for goods to be carried from the country to places outside the country—

On every such bill or copy 0.80

Duty is payable by the person by whom the goods are consigned.

4. COMPANIES to be incorporated in the country—

On company constitutions adopted under 40.00

Part V of the *Companies Act 1997*

On certificates of incorporation 60.00

COMPANIES incorporated outside the country to be registered in the country—

On certificates of registration 60.00

5. CONVEYANCES OR TRANSFERS ON SALE OF REAL PROPERTY—

(a) Where the property is a residential property and the purchaser is a citizen and—

(i) **neither he nor (if he is**

**Stamp Duties Act**

**married) his spouse has previously owned a residential property in Papua New Guinea or elsewhere and he is purchasing the property for use solely as his or their (if he is married) principal residence—**

**Where the value—**

<b>Does not exceed K500,000.00</b>	<b>Nil</b>
<b>Exceeds K500,000.00</b>	<b>5% of the value in excess of K500,000.00</b>

**(ii) has previously owned a residential property either in Papua New Guinea or elsewhere and is purchasing the property for use solely as his or their (if he is married) principal residence—**

**Where the Value—**

<b>Does not exceed K210,000.00</b>	<b>2% of that value</b>
<b>Exceeds K210,000.00</b>	<b>K4,200.00 + 5% of the Value in excess of K210,000.00</b>

**(iii) is the owner of a residential property and is purchasing another residential property for use solely as his or their (if he is married) principal residence—**

**Where the value—**

<b>Does not exceed K210,000.00</b>	<b>2% of the value</b>
<b>Exceeds K210,000.00</b>	<b>K4,200.00 + 5% of the value in excess of K210,000.00</b>



## **Stamp Duties Act**

**(iv) is the owner of more than one residential property and is purchasing another residential property**

**Stamp Duty is payable as per Paragraph (b)**

“**residential property**”, for the purposes of this Item, includes any residential property of which a person has land use entitlement directly or indirectly under marketable security or other chose in action.

(ab) Where the property is a mining lease, special mining lease or exploration licence issued under the *Mining Act* 1992 or the subject of a licence issued under the *Oil and Gas Act* 1998—2% of the value;

(ac) Where the transfer is a transfer of property to a unit trust or a property unit trust or is a transfer of property to a trust which immediately after the transfer will become a unit trust or a property unit trust being a transfer prior to 1 January 2015 – 2% of the value;

(b) In cases to which Paragraph (a) and (ab) do not apply—

Where the value—

does not exceed K35,000.00	K5.00 or an amount equal to 2 per cent of the value, whichever is the greater
exceeds K35,000.00 but does not exceed K70,000.00	An amount equal to 3 per cent of the value
exceeds K70,000.00 but does not exceed K140,000.00	An amount equal to 4 per cent of the value
exceeds K140,000.00	An amount equal to 5 per cent of the value

Duty is payable by the purchaser or the person deemed to be the purchaser, or the person to whom the property is agreed to be conveyed.

Exemptions—

- (1) Grants from the State of land in the country.
- (2) Instruments deducting free and perpetual rights of way to the use of the public and

## **Stamp Duties Act**

not containing provisions by which the instruments could otherwise be chargeable with duty.

(3) Marriage settlements.

(4) Conveyances or transfers of real property to, or in trust for, registered friendly societies or corporations or bodies of persons<sup>xvi</sup> associated for religious, charitable, recreational or educational purposes, and instruments for declaring or defining the trusts or for appointing new trustees in respect of real property so conveyed.

(5) Instruments dealing with property outside the country to the extent that they relate to such property.

(6) Conveyances or transfers of real property where:

(i) the conveyance is made by the trustee to the beneficiary of the trust (otherwise than for valuable consideration) and does not constitute a breach of the trust; and

(ii) stamp duty on the prior conveyance of the real property has been paid or was not payable; and

(iii) in the opinion of the Collector of Stamp Duties the conveyance referred to in Subparagraph (i) is not made in connection with a scheme or arrangement to avoid stamp duty.

(7) Conveyances or transfers of real property by the Gazelle Restoration Authority under a land resettlement scheme implemented pursuant to or otherwise authorized under the *Gazelle Restoration Authority Act 1995*.

(8) Transfers or assignments of leases where the consideration consists solely of an obligation to perform work pursuant to a work commitment arising out of an exploration licence issued under the *Mining Act 1992* or a petroleum prospecting authority issued under the *Petroleum Act* (Chapter 198).

(9) Transfers or assignments of leases, consisting of exploration tenements, exploration licences or petroleum exploration licences, where the Minister is satisfied that the transfers were not made by way of a scheme of arrangements aimed at deriving a profit from the sale of the lease and where the consideration does not exceed the value of the mining or petroleum information.

(10) Conveyances or transfers of real property that are made—

(a) in pursuance of deeds of settlement or deeds of gift that have been duly stamped; or

(b) to beneficiaries under wills or in pursuance of letters of administration of a deceased person's estate.

(11) Conveyances or transfers of real property—

(a) to a person as a consequence of the retirement of a trustee or the appointment of a new trustee, providing the Commissioner is satisfied that—

(i) none of the continuing trustees remaining after the retirement of a trustee is or can become a beneficiary under the trust; and

(ii) none of the trustees of the trust after the appointment of a new trustee is or can become a beneficiary of the trust; and

(iii) the transfer is not part of a scheme for conferring an interest, in relation to the trust property, on a new trustee or any other person, whether as a

**Stamp Duties Act**

beneficiary or otherwise, to the detriment of the beneficial interest of any person; and

(iv) the transfer is not made in connection with a tax avoidance scheme; or

(b) to an executor or administrator of a deceased person's estate, for the purpose of administering the estate.

6. DEEDS OR AGREEMENTS UNDER SEAL Nil  
of a kind not otherwise described in this Schedule affecting persons, matters or things in the country, and not otherwise specifically chargeable with duty.

AGREEMENTS OR MEMORANDA OF Nil  
AGREEMENTS UNDER HAND ONLY not otherwise described in this Schedule affecting persons, matters or things in the country, and not otherwise specifically chargeable with duty. Such instruments shall be deemed to be stamped.

Duty is payable by the parties.

*Exemptions—*

(1) Agreements or memoranda of agreements for the connection or reconnection of water, telephone or electricity services or for the provision of any sewerage services provided by the Post and Telecommunication Corporation, any electricity undertaker (as defined in the *Electricity Industry Act* (Chapter 78), the Water Board or the National Capital District Commission or any other body declared by the Minister by notice in the National Gazette to be an official supplier of such services.

(2) An Agreement or Memorandum of Agreement included in a class of instruments that the Minister has declared by notice in the National Gazette to be exempt from duty under this Item.

7. DUPLICATES AND REPLICAS OF INSTRUMENTS.

(a) For every duplicate of an instrument chargeable with duty 5.00

Duty is payable by the person primarily liable in respect of the original instrument.

**Stamp Duties Act**

(b) For every replica of an instrument previously stamped or certified 50.00 by the Collector of Stamp Duties to be free from duty

Duty is payable by the person who presents the replica to the Collector of Stamp Duties for stamping.

8. GIFT, DEEDS OF—

Where the value of the gift—

does not exceed K35,000.00	5.00 or an amount equal to 2 per cent of the value of the gift, whichever is the greater
exceeds K35,000.00 but does not exceed K70,000.00	An amount equal to 3 per cent of the value of the gift
exceeds K70,000.00 but does not exceed K140,000.00	An amount equal to 4 per cent of the value of the gift
Exceeds K140,000.00	An amount equal to 5 per cent of the value of the gift

Duty is payable by the donee.

*Exemptions—*

- (1) Wills.
- (2) Instruments made before and in consideration of marriage.
- (3) Instruments dealing with property situated outside the country to the extent that the instruments relate to such property.
- (4) Instruments by which property is given or agreed to be given, or conveyed or agreed to be conveyed, to or in trust for corporations or bodies of persons associated for religious, charitable or educational purposes, so far as the instruments operate in that way.
  
- (5) Transfers or assignments of leases, consisting of mining tenements, prospecting licences or petroleum licences, where the Minister is satisfied that the transfers were not made by way of a scheme or arrangement aimed at deriving a profit from the sale of the lease and where the consideration does not exceed the value of the mining or petroleum information.

**Stamp Duties Act**

**9. LEASES OR AGREEMENTS FOR LEASES OF LAND, AND LEASES OF GOODS AND AGREEMENTS FOR LEASES OF GOODS FOR DEFINITE OR INDEFINITE TERMS—**

(a) Where the consideration or part of the consideration, not being by way of rent, moving to the lessors or the other persons consists of money or marketable securities or other property

1.00 or an amount equal to 1 per cent of the value of the lease, whichever is the greater

(b) Where the consideration is by way of rent in the case of—

(i) a lease for a definite term of less than 12 months—for the first K240.00 (or part thereof) of the rent for the lease period

K5.00

for the remainder

An amount equal to 0.4 per cent of so much of the rent for the lease period as exceeds K240.00

(ii) a lease for a definite term of 12 months or more but less than 5 years—for the first K240.00 (or part thereof) of the rent for the lease period

K5.00

for the remainder

An amount equal to 0.4 per cent of so much of the rent for the lease period as exceeds K240.00

(iii) a lease for 5 years or more—for the first K240.00 (or part thereof) of the rent for the lease period

K10.00

for the remainder

An amount equal to 1.0 per cent of so much of the rent for the lease period as exceeds K240.00

Duty is payable by the parties or any one or more of them.

*Exemption—*

(1) Mining leases or agreements for the right to enter on or occupy and use any land for mining purposes.

(2) Leases from the State.

(3) Leases of goods where the Collector of Stamp Duties is satisfied that the goods are for use in or in connection with mining or petroleum operations or exploration carried on

## **Stamp Duties Act**

pursuant to a Special Mining Lease or a Prospecting Authority under the *Mining Act* 1992 or a Pipeline Licence, Petroleum Development Licence or a Petroleum Prospecting Licence under the *Oil and Gas Act* 1998.

(4) an arrangement comprising a “wet hire” (that is, an arrangement under which an operator is provided by or at the direction of the person leasing out the goods to operate the goods for the lessee).

### 10. PARTITIONS OR DIVISIONS OF REAL PROPERTY IN THE COUNTRY—

Where the value—

does not exceed K35,000.00	5.00 or an amount equal to 2 per cent of the value whichever is the greater
exceeds K35,000.00 but does not exceed K70,000.00	An amount equal to 3 per cent of the value
exceeds K70,000.00 but does not exceed K140,000.00	An amount equal to 4 per cent of the value
exceeds K140,000.00	An amount equal to 5 per cent of the value

Duty is payable by the parties, or any one or more of them.

### 11. PARTITIONS OR DIVISIONS OF THE INTERESTS OF LESSEES UNDER LEASES OF LAND IN THE COUNTRY—

Where the value—

does not exceed K35,000.00	5.00 or an amount equal to 2 per cent of the value whichever is the greater
exceeds K35,000.00 but does not exceed K70,000.00	An amount equal to 3 per cent of the value
exceeds K70,000.00 but does not exceed K140,000.00	An amount equal to 4 per cent of the value
exceeds K140,000.00	An amount equal to 5 per cent of the value

Duty is payable by the parties, or any one or more of them.

**Stamp Duties Act**

12. POLICIES OF INSURANCE—

Policies covering plate glass, fidelity guarantee, workers' or seamen's compensation, personal accident or sickness	5.00
Policies of re-insurance	An amount equal to 0.5 per cent of premium payable
Assignments or transfers of policies, otherwise than by way of mortgage	5.00
On all other policies and renewals of such policies	An amount equal to 6.5 per cent of premium payable

The person primarily liable is the person issuing the policy or in the case of a transfer or assignment, the transferee or assignee.

*Exemptions—*

- (1) Policies to which the Government, the Commonwealth or an approved instrumentality of the Government or of the Commonwealth is a party.
- (2) Policies covering loss of tools of trade by a worker.
- (3) Policies covering the Papua New Guinea Red Cross Society against loss.
- (4) Cover notes providing a policy is issued within three months.
- (4A) Policies of insurance or assurance with premiums less than K4.00 and cover notes relating to such policies.
- (4B) Policies of life assurance.
- (5) Such other policies as are exempted by the Minister by notice in the National Gazette.

13. POWERS OF ATTORNEY— [Repealed]

14. SETTLEMENT, DEEDS OF—

Where the value of the property in relation to which an instrument is a deed of settlement—

does not exceed K35,000.00	K5.00 or an amount equal to 2 per cent of the value of the property whichever is the greater
exceeds K35,000.00 but does not exceed K70,000.00	An amount equal to 3 per cent of the value of the property
exceeds K70,000.00 but does not exceed K140,000.00	An amount equal to 4 per cent of the value of the property

**Stamp Duties Act**

exceeds K140,000.00

An amount equal to 5 per cent of the value of the property

Duty is payable by the settlor.

*Exemptions—*

- (1) Wills.
- (2) Instruments made before and in consideration of marriage.
- (3) Deeds of settlement so far as they relate to property situated outside the country.
- (4) Instruments by which property is settled or agreed to be settled on corporations or bodies of persons associated for religious or charitable purposes, so far as the instruments relate to any such settlements, gifts or agreements.

15. TRANSFERS OR ASSIGNMENTS OF LEASES OF LAND IN THE COUNTRY, including decrees or orders of courts or of officers authorized by law by which property in leases of land in the country is transferred, assigned or conveyed to or vested in, a person—

(a) where the consideration does not consist of or include money, marketable securities, or other property 25.00

(b) where the consideration or a part of the consideration consists of money, marketable securities or property and the value of the consideration—

does not exceed K35,000.00

5.00 or an amount equal to 2 per cent of the value whichever is the greater

exceeds K35,000.00 but does not exceed K70,000.00

An amount equal to 3 per cent of the value

exceeds K70,000.00 but does not exceed K140,000.00

An amount equal to 4 per cent of the value

exceeds K140,000.00

An amount equal to 5 per cent of the value

Duty is payable by the transferee or assignee.

For the purposes of this item, “leases” includes—

- (a) rights arising out of applications for leases that have been granted;



**Stamp Duties Act**

(b) . . . [Repealed]

(c) . . . [Repealed]

(d) . . . [Repealed]

(e) . . . [Repealed]

(f) . . . [Repealed]

(g) interests in, or options over, any such leases, rights arising out of granted applications for leases, mining tenements, licences, permits or authorities.

*Exemptions—*

(1) Transfers or assignments of leases that the Minister is satisfied are made by way of security, or by way of re-transfer or re-assignment to persons who transferred or assigned them by way of security.

(2) Transfers or assignments of leases to, or in trust for, registered friendly societies or corporations or bodies of persons associated for religious, charitable, recreational or educational purposes, and instruments for declaring or defining the trusts or for appointing new trustees in respect of leases so transferred or assigned.

(3) . . . [Repealed]

(4) . . . [Repealed]

**15A. MINERALS AND PETROLEUM FARM-INS AND TRANSFERS OF MINING OR PETROLEUM INFORMATION AND TRANSFERS OF TENEMENTS AND EXPLORATION LICENSES.**

*Transfers or assignments of—*

- |   |   |
|---|---|
| <p>(a) any tenements as defined in Section 2 of the <i>Mining Act</i> 1992, or exclusive exploration licences granted under the <i>Mining Act</i> 1992, or licences granted under the <i>Petroleum Act</i> (Chapter 198); or</p> <p>(b) any rights arising out of applications of leases referred to in Paragraph (a) that have been granted; or</p> <p>(c) interests in, or options over, any such leases or rights referred to in Paragraph (a) or (b), where transfer or assignment is covered by Exemption (8) or (9) of Item 5; or</p> <p>(d) any mining or petroleum information.</p> | <p>K10,000.00 or the amount of duty assessable under Item 5 <i>whichever is the lesser.</i></p> |
|---|---|

**Stamp Duties Act**

Duty is payable by the transferee or assignee.

**15B. COMPANY RECONSTRUCTIONS TRANSFER OF PROPERTY.**

Transfer or assignment of property covered by Section 68A exemption.	An amount of K600.00 per transaction or the amount assessable under items 5, 16 or 16A, whichever is the lesser and not more than K12,500.00 for all related transactions
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**16. TRANSFERS OF MARKETABLE SECURITIES OR RIGHTS TO THE ISSUE OF SHARES, AND DIRECTIONS AS TO THE ISSUE OR ALLOTMENT OF SHARES.**

Transfers of marketable securities (other than to the extent a land use entitlement marketable security and acquisitions is assessable under Item 16A).	An amount equal to 1 per cent of the value or K0.10 whichever is the greater
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Transfers of land use entitlement marketable securities:—

Where the value—

Does not exceed K35,000.00	K5.00 or an amount equal to 2 per cent of the value whichever is the greater
exceeds K35,000.00 and does not exceed K70,000.00	An amount equal to 3 per cent of the value
exceeds K70,000.00 and does not exceed K140,000.00	An amount equal to 4 per cent of the value
exceeds K140,000.00	An amount equal to 5 per cent of the value

Duty is payable by the purchaser, transferee or donee.

*Exemptions—*

- (1) Transfers of marketable securities or receipts in respect of marketable securities that are made—
  - (a) in pursuance of deeds of settlement or deeds of gift that have been duly stamped; or
  - (b) to beneficiaries under wills or in pursuance of letters of administration of

## **Stamp Duties Act**

deceased persons' estate.

(2) Transfers of shares or of rights to the issue of shares in registered co-operative housing societies or societies registered under the *Savings and Loan Societies Act* on sales for a consideration of not less than the unencumbered value of the shares or the rights in respect of shares comprised in the transfers.

(3) Transfers of marketable securities that the Minister is satisfied are made by way of security, or by way of re-transfer to persons who transferred them by way of security.

(4) Transfers or assignments of marketable securities—

(a) to a person as a consequence of the retirement of a trustee or the appointment of a new trustee, providing the Commissioner is satisfied that:

(i) none of the continuing trustees remaining after the retirement of a trustee is or can become a beneficiary under the trust; and

(ii) none of the trustees of the trust after the appointment of a new trustee is or can become a beneficiary of the trust; and

(iii) the transfer is not part of a scheme for conferring an interest, in relation to the trust property, on a new trustee or any other person, whether as a beneficiary or otherwise, to the detriment of the beneficial interest of any person; and

(iv) the transfer is not made in connection with a tax avoidance scheme; or

(b) to an executor or administrator of a deceased person's estate, for the purpose of administering the estate; or

(c) where:

(i) the transfer is made by the trustee to the beneficiary of the trust (otherwise than for valuable consideration) and does not constitute a breach of the trust; and

(ii) stamp duty on the prior transfer of the marketable securities has been paid or was not payable; and

(iii) in the opinion of the Collector of Stamp Duties the transfer referred to in Subparagraph (i) is not made in connection with a scheme or arrangement to avoid stamp duty."

(5) Directions for the issue or allotment of shares in a company given by the underwriter in a contract for underwriting shares on the first issue of the shares by the company, and given for a consideration of not less than the unencumbered value of the shares directed to be issued or allotted.

(6) . . . [Repealed].

(7) Bills, bonds, inscribed stock, debentures, deposit receipts and other securities issued by the Government of the State, and coupons or interest warrants issued in connection with any such bills, stock, debentures, deposit receipts or other securities, and any transfer of, or documents relating to, the purchase or sale of any such bills, bonds, stock, debentures, deposit receipts or other securities.

(8) Transfers of land use entitlement marketable securities where the Commissioner General is satisfied that neither the citizen transferee nor the citizen transferee's spouse

## Stamp Duties Act

(if he is married) has previously owned an interest in a residential property either in Papua New Guinea or elsewhere and the relevant land use entitlement attaches to property which will be used by the citizen transferee solely as his or their (if he is married) home.

(9) Transfers of any marketable securities listed on the Port Moresby Stock Exchange where the sale is effected through a stock broker registered to operate on the Port Moresby Stock Exchange under Papua New Guinea law.

(10) . . . [Repealed]

(11) Transfers of all transactions to the People's Unit Trust.

### 16A. ACQUISITION OF INTEREST IN LANDHOLDING PRIVATE CORPORATION:

(a) where the land is a mining lease, special mining lease or exploration licence issued under the *Mining Act* 1992 or the subject of a licence issued under the *Oil and Gas Act* 1998 or any other licence of a similar nature (other than licences to which paragraph (b) apply)—2 per cent of the value excluding any amount which relates to mining or petroleum information duty upon which is charged under Subsection (c) below;

(b) where the land is a tenement as defined in Section 2 of the *Mining Act* 1992, or exclusive exploration licences granted under the *Mining Act* 1992, or licences granted under the *Oil and Gas Act* 1998 or any rights arising out of applications of leases referred to in this paragraph that have been granted or interests in, or options over, any such leases or rights referred to in this paragraph, where a direct transfer or assignment of the tenement, licence or interest therein would be covered by Exemption (8) or (9) of Item 5—K10,000 or the amount of duty assessable under Item 5, whichever is the lesser;

(c) where the land is mining or petroleum information and where the direct transfer of the mining or petroleum information would be assessable under Item 15A—K10,000;

(d) in cases to which Paragraphs (a) and (b) do not apply—

Where the value—

does not exceed K35,000.00	2% of the value
exceeds K35,000.00 but does not exceed K70,000.00	3% of the value
exceeds K70,000.00 but does not exceed K140,000.00	4% of the value
exceeds K140,000.00	5% of the value

*Exemptions—*

(1) Where transferee is a hospital, educational or religious institution, a charitable organisation approved under the *Income Tax Act* 1959 or a trustee who is to hold the property transferred in trust for a hospital, educational or religious institution or

## **Stamp Duties Act**

charitable organisation.

(2) Acquisition made consequent on the death of a person where the transferor is the executor of the will of the deceased person, the administrator of the estate of the deceased person or a beneficiary of the will or estate of the deceased person.

(3) Transaction made by operation of law on the bankruptcy of a person or the winding up of a company.

(4) Transfers or assignments of interests that are made in pursuance of deeds of settlement or deeds of gift that have been duly stamped; or

(5) Transfers or assignments of interests—

(a) to a person as a consequence of the retirement of a trustee or the appointment of a new trustee, providing the Commissioner is satisfied that:

(i) none of the continuing trustees remaining after the retirement of a trustee is or can become a beneficiary under the trust; and

(ii) none of the trustees of the trust after the appointment of a new trustee is or can become a beneficiary of the trust; and

(iii) the transfer is not part of a scheme for conferring an interest, in relation to the trust property, on a new trustee or any other person, whether as a beneficiary or otherwise, to the detriment of the beneficial interest of any person; and

(iv) the transfer is not made in connection with a tax avoidance scheme; or

(b) to an executor or administrator of a deceased person's estate, for the purpose of administering the estate; or

(c) where:

(i) the transfer is made by the trustee to the beneficiary of the trust (otherwise than for valuable consideration) and does not constitute a breach of the trust; and

(ii) stamp duty on the prior transfer of the marketable securities has been paid or was not payable; and

(iii) in the opinion of the Collector of Stamp Duties the transfer referred to in Subparagraph (i) is not made in connection with a scheme or arrangement to avoid stamp duty.

(6) Transfers of marketable securities that the Minister is satisfied are made by way of security or by way of re-transfer to persons who transferred them by way of security.

17. BETTING TICKETS. [Repealed by No. 51 of 2016]

18. GUARANTEES. [Repealed]

19. LOTTERY TICKETS.

A lottery determined by the Commissioner General to be a foreign lottery

50 toea per  
ticket

Any other lotteries—

**Stamp Duties Act**

Tickets up to K5.00 per ticket

5 toea per ticket

Tickets exceeding K5.00 per ticket

10 toea per ticket

Duty is payable by the Promoter.

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The Act has "licencee".

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pngInLaw Edit: The Act has "used".

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Sic. Semble this should read "comprises".

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pngInLaw Edit: "to" editorially inserted.

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pngInLaw Edit: The Act has "confirmity".

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pngInLaw: editorially inserted.

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pngInLaw Edit: The Act has "have".

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pngInLaw Edit: Editorially changed. The Act has "creates".

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pngInLaw Edit: The Act has "volorem".

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pngInLaw Edit: The Act has "annulled".

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The Act has "annullment".

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The Act has "annullment".

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pngInLaw edit: The Act has "amalgated".

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pngInLaw Edit: The word "to" has been editorially inserted.

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pngInLaw Edit: The Act has "person".