



# **UNDANG-UNDANG MALAYSIA**

**Akta 693**

**AKTA KEWANGAN 2009**

## CHAPTER III AMENDMENTS TO THE STAMP

### ACT 1949 Commencement of amendments to the Stamp

#### Act 1949

**51.** This Chapter comes into operation on 1 January 2009.

#### Amendment of section 2

**52.** The Stamp Act 1949, which is referred to as the "principal Act" in this Chapter, is amended in section 2—

(a) in the definition of "duly stamped", by substituting for the proviso the following proviso:

"Provided that a stamp certificate or official receipt for the proper amount or amount of initial duty may be attached or affixed to any instrument in lieu of the stamp, and the instrument shall be deemed to be duly stamped;"; and

(b) by inserting after the definition of "small and medium enterprise" the following definition:

' "stamp certificate" means a certificate that is issued electronically in respect of any instrument chargeable with duty denoting the amount of duty paid in respect of that instrument;'

### **Amendment of section 7**

**53.** Section 7 of the principal Act is amended by substituting for subsection (1) the following subsection:

"(1) Subject to any rules made under paragraph 82(*b*), all duties with which any instruments are chargeable under this Act shall be paid, and payment shall be indicated on such instrument by—

- (*a*) means of an adhesive stamp;
- (*b*) affixing an official receipt to such instrument; or
- (*c*) attaching a stamp certificate to such instrument."

**New section 11A**

**54,** The principal Act is amended by inserting after section 11 the following section:

**"Replica**

**11A.** (1) Where a replicate of an instrument is presented to the Collector, the replicate of such instrument shall not be deemed to be duly stamped unless it can be shown to the satisfaction of the Collector that all the facts and circumstances affecting the liability of the original instrument to duty, and the amount of the duty chargeable thereon has been paid.

(2) For the purpose of subsection (1), the Collector shall indorse on the replicate of the instrument that full and proper duty with which the original is chargeable had been paid upon payment of a fee of one hundred ringgit for each replicate of an instrument."

## **Amendment of section 12**

**55.** The principal Act is amended by substituting for section 12 the following section:

"12. The duplicate or counterpart of an instrument chargeable with duty (except the counterpart of an instrument chargeable as a lease, such counterpart not being executed by or on behalf of any lessor or grantor) shall not be deemed to be duly stamped unless—

(a) it is stamped as an original instrument;

(b) it appears by a certificate indorsed by the Collector on the duplicate or counterpart that full and proper duty has been paid on the original instrument; or

(c) there is denoted on the stamp certificate issued for the duplicate or counterpart that payment of the stamp duty has been paid in respect of the original instrument."

### **Amendment of section 36**

**56.** Section 36 of the principal Act is amended by substituting for subsection (1) the following subsection:

"(1) All instruments chargeable with duty and executed by any person in Malaysia (except an instrument which by virtue of section 47 cannot be stamped after execution) shall be brought to the Collector and the Collector shall assess the duty, if any, with which in his judgment the instrument is chargeable."

### **Amendment of section 37**

**57.** Section 37 of the principal Act is amended—

- (a) in subsection (1), by deleting the words "is in his opinion one of a description chargeable with duty,";
- (b) in subsection (2), by deleting the words "in his opinion";  
and
- (c) by inserting after subsection (4) the following subsection:

"(5) This section shall only apply to instrument where indorsement is required to be made on that instrument pursuant to any written law."



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### **Amendment of section 40**

**58.** Section 40 of the principal Act is amended by substituting for the words "When the opinion of the Collector with respect to the amount of duty with which an instrument is chargeable has been required" the words "Where an instrument is brought to the Collector pursuant to subsection 36(1)".

**Amendment of section 48**

**59.** The principal Act is amended by substituting for section 48 the following section:

"48. The payment of any penalty prescribed under section 43 or 47A shall be denoted on the instrument concerned—

- (a) by a stamp duly cancelled;
- (b) by means of an impressed stamp;
- (c) by affixing an official receipt to the instrument; or
- (d) by attaching a stamp certificate to the instrument,

and shall be certified by the Collector."

**New section 50A**

**60.** The principal Act is amended by inserting after section 50 the following section:

**"Error in assessment, etc.**

**50A.** NO assessment shall be affected by—

- (a) any erroneous or under assessment of the duty or penalty by the Collector; or
- (b) the failure to assess that duty or penalty by the Collector,

and the correct amount of duty or penalty due on the instrument shall be debts due to the Government and shall be recoverable by any of the ways and means in force for the time being for the recovery of debts due to the Government."

Amendment of section 57

61. Section 57 of the principal Act is amended—

(a) in paragraph (f)—

(i) by substituting for the colon at the end of subparagraph (v) a semicolon; and

(ii) by inserting after subparagraph (v) the following subparagraph:

"(vi) in the case of an instrument executed by any party implementing a sale under a duly stamped agreement for sale and purchase but afterwards became cancelled, annulled, rescinded or is otherwise not performed:"; and

(b) in the proviso, by inserting after paragraph (a) the following paragraph:

"(aa) that the application for relief is made within two months from the date the instrument of transfer is rejected by the Registrar of Titles; or".

## **Amendment of section 59A**

**62.** Section 59A of the principal Act is amended by inserting after the words "official receipt" the words "or a stamp certificate".

## New sections 77A and 77B

63. The principal Act is amended by inserting after section 77 the following sections:

### **"Electronic medium**

**77A.** (1) For the purposes of this Act, the Collector may by an electronic medium allow a registered person, without the need for the instrument to be presented to the Collector—

- (a) to obtain an assessment of stamp duty and any penalty, if any, on an instrument;
- (b) to pay stamp duty and any penalty, if any, on an instrument by electronic funds transfer or otherwise, in accordance with the assessment;
- (c) to obtain a stamp certificate in relation to the assessment; or
- (d) to obtain an indorsement of stamp duty in a case where section 37 applies.

(2) In this section, "registered person" means any person who applies to the Collector to register to use the electronic medium.

(3) All conditions and specifications relating to the use of electronic medium shall be determined by the Collector.

### **Electronic assessment and stamping of instruments**

**77B.** (1) For the purposes of this Act, the issue of a stamp certificate for an instrument shall state an assessment of a duty and any penalty, if any, in relation to the instrument.

(2) A registered person must, on receipt of a stamp certificate issued for the instrument by the Collector, immediately attach the stamp certificate to the instrument."

### **Amendment of section 82**

**64.** Section 82 of the principal Act is amended by inserting after paragraph (a) the following paragraph:

"(aa) to prescribe the stamp certificate and official receipt to be issued under this Act for the payment of stamp duty, to provide for matters relating to issue and validity of the stamp certificate and official receipt;".

## **Amendment of First Schedule**

**65.** The First Schedule to the principal Act is amended by substituting for item 22(1) the following item:

<b>Item</b>	<b>Description of Instrument</b>	<b>Proper Stamp Duty</b>
<b>"22</b>	<b>BOND, COVENANT, LOAN, SERVICES, EQUIPMENT LEASE AGREEMENT OR INSTRUMENT of any kind whatsoever:</b>	
	(1) (a) being the only or principal or primary security for any annuity (except upon the original creation thereof by way of sale or security, and except a superannuation annuity), for the term of life or any other indefinite period	
	for every RM100 and also for any fractional part of RM100 of the annuity or sum periodically payable	<b>RM1.00</b>
	(b) for any sum or sums of money, not being interest for any principal sum secured by a duly stamped instrument, nor rent reserved by a lease or tack.	<b>The same <i>ad valorem</i> duty as a charge or mortgage for such total amount."</b>