

A BILL

i n t i t u l e d

An Act to amend the Stamp Act 1949.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Stamp (Amendment) Act 2016.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Amendment of section 2

2. The Stamp Act 1949 [*Act 378*], which is referred to as the “principal Act” in this Act, is amended in section 2—

(a) by substituting for the definition of “banker” the following definition:

‘ “banker” means any person licensed under—

(a) the Financial Services Act 2013 [*Act 758*] to carry on a banking business in Malaysia; or

(b) the Islamic Financial Services Act 2013 [Act 759] to carry on an Islamic banking business in Malaysia;’;

(b) by substituting for the definition of “duly stamped” the following definition:

‘ “duly stamped”, as applied to an instrument chargeable with duty, means an instrument having—

(a) an adhesive stamp affixed to it and duly cancelled;

(b) an impressed stamp;

(c) a stamp certificate attached to it; or

(d) an official receipt attached to it,

where the duty on such instrument shall not be less than the proper amount of the stamp in accordance with the law for the time being in force at the time of stamping;’;

(c) in the definition of “duty”, by deleting the words “or under any written law”;

(d) by substituting for the definition of “insurer” the following definition:

‘ “insurer” means any person licensed under—

(a) the Financial Services Act 2013 to carry on an insurance business in Malaysia and includes a reinsurer; or

(b) the Islamic Financial Services Act 2013 to carry on a takaful business in Malaysia and includes a retakaful operator;’;

(e) by inserting after the definition of “insurer” the following definition:

‘ “interest” includes gains or profits received *in lieu* of interest in transactions conducted in accordance with the principles of Shariah;’;

- (f) by substituting for the definition of “policy of insurance” the following definition:

‘ “policy of insurance” means a policy which is issued in Malaysia by an insurer consisting of a life policy, a general policy or a reinsurance contract with another insurer and includes takaful certificate; and the expression “insurance” includes “assurance”’;

- (g) by substituting for the definition of “small and medium enterprise” the following definition:

‘ “small and medium enterprise” means—

(a) in relation to the manufacturing activities, an enterprise with sales turnover not exceeding fifty million ringgit or full-time employees not exceeding two hundred people; or

(b) in relation to the services, and other sectors, an enterprise with sales turnover not exceeding twenty million ringgit or full-time employees not exceeding seventy-five people’;

- (h) by substituting for the definition of “stamp certificate” the following definition:

‘ “stamp certificate” means a certificate that is issued electronically in respect of any instrument chargeable with duty denoting—

(a) the amount of duty paid in respect of that instrument; or

(b) the exemption or remission of the duty which would otherwise be chargeable in respect of that instrument’; and

- (i) by inserting after the definition of “stock” the following definition:

‘ “takaful certificate” means a family takaful certificate, general takaful certificate or retakaful certificate with another takaful operator, which is issued in Malaysia by a licensed takaful operator’.

Amendment of section 3A**3. Section 3A of the principal Act is amended—**

(a) by substituting for subsection (1) the following subsection:

“(1) For the purposes of ascertaining whether an instrument is chargeable with duty under this Act or whether such duty has been paid, the Collector may by notice in writing, require any person—

- (a) to produce for examination any instrument, book, account, record or other document within the time specified in the notice; or
- (b) to attend personally before him and produce for examination any instrument, book, account, record or other document.”;

(b) in subsection (2)—

- (i) by inserting after the words “free access to” the words “and may search”; and
- (ii) by substituting for the words “books and documents” and “books or documents” wherever appearing the words “instruments, books, accounts, records and other documents” and “instruments, books, accounts, records or other documents” respectively;

(c) by inserting after subsection (2) the following subsection:

“(2A) Where the Collector exercises his powers under subsection (2), the owners or occupiers of such lands, buildings and places shall provide the Collector with reasonable facilities and assistance.”;

(d) in subsection (3), by substituting for the words “books or documents” wherever appearing the words “instruments, books, accounts, records or other documents”; and

(e) by substituting for subsection (5) the following subsection:

“(5) Any person who—

- (a) without reasonable excuse, fails to comply with a notice under subsection (1);

- (b) obstructs or refuses to give access to the Collector into any land, building or place in pursuance of subsection (2);
- (c) obstructs or hinders the Collector, or any valuer duly authorized by the Collector, in the exercise of any of his powers under this Act;
- (d) refuses to produce any instrument, book, account, record or other document in his custody or under his control on being required to do so by the Collector for the purposes of this Act;
- (e) fails to provide reasonable facilities or assistance or both to the Collector in the exercise of his powers under this Act; or
- (f) refuses to comply with any direction given by the Collector or to answer any question lawfully asked of him by the Collector for the purpose of this section,

commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.”.

Amendment of section 4

4. Subsection 4(1) of the principal Act is amended—

- (a) by deleting the words “and in any written law for the time being in force”; and
- (b) by substituting for the words “, from and after the commencement of this Act, be chargeable with the several duties specified in such Schedule” the words “be duly stamped with the chargeable duty of the amount specified in that Schedule as the proper duty”.

Amendment of section 4A

5. Subsection 4A(3) of the principal Act is amended by substituting for the words “shall be liable to a fine not exceeding two hundred and fifty ringgit” the words “commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit”.

Amendment of section 6

6. Section 6 of the principal Act is amended by deleting the words “or by any other written law”.

Amendment of section 7

7. Subsection 7(1) of the principal Act is amended by inserting after paragraph (a) the following paragraph:

“(aa) means of an impressed stamp;”.

Amendment of section 8

8. Section 8 of the principal Act is amended—

(a) by inserting after subsection (3) the following subsection:

“(3A) A person authorized by the Minister under subsection (1) shall frank the instrument within thirty days from the date the instrument is executed.”;

(b) in subsection (4), by inserting after the words “postal franking machine” the words “or digital franking machine”;

(c) in subsection (6), by substituting for the words “kept by him” the words “kept by the person authorized by the Minister under subsection (1)”;

(d) in subsection (7), by substituting for the words “authorized person” the words “person authorized by the Minister under subsection (1)”; and

(e) by substituting for subsection (8) the following subsection:

“(8) A person authorized by the Minister under subsection (1) who fails to comply with the conditions imposed in the licence issued under subsection (2) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.”.

Amendment of section 9

9. Section 9 of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:

“(1) The Collector may authorize any person including any banker, dealer or insurer, by notification in the *Gazette*, to compound for the payment of duty on unstamped instrument subject to the condition that the instrument be drawn or drawn up and issued on a form to be supplied or adopted by the said person.”;

(b) in subsection (3), by substituting for the words “two hundred ringgit or ten per centum” the words “five hundred ringgit or twenty per centum”;

(c) in subsection (6), by substituting for the words “as mentioned under paragraph 1(a), (b) or (c)” the words “under subsection (1)”; and

(d) in subsection (7), by substituting for the words “mentioned in” and “paragraph 1(a), (b) or (c)” the words “authorized under” and “subsection (1)” respectively.

Substitution of section 10

10. The principal Act is amended by substituting for section 10 the following section:

“Stamping of instrument

10. Every instrument chargeable with duty shall be so stamped that the stamp shall appear on the face of the instrument, and the stamp cannot be used for or applied to any other instrument.”.

Amendment of section 11

11. Section 11 of the principal Act is amended—

(a) by renumbering the existing provision as subsection (1); and

(b) by inserting after subsection (1) as renumbered the following subsections:

“(2) This section shall apply to an instrument assessed by the Collector under paragraph 36(1)(a) or (b).

(3) Where a person furnishes a return by an electronic medium pursuant to paragraph 77A(1A)(b), the Collector shall be deemed to assess the first-mentioned instrument referred to in subsection (1) and the payment of the duty for the last-mentioned instrument shall be denoted by indorsement on the stamp certificate.”.

Amendment of section 11A

12. Section 11A of the principal Act is amended—

(a) in subsection (1), by inserting after the words “the original instrument to duty” the words “has been fully and truly set forth”; and

(b) by inserting after subsection (1) the following subsection:

“(1A) The presentation of the replicate of the instrument under subsection (1) shall be made within six years from the date of execution of such instrument.”.

New section 11B

13. The principal Act is amended by inserting after section 11A the following section:

“Loss of stamp certificate

11B. (1) Where, on the loss of a stamp certificate, an application is made to the Collector for the issuance of a substituted stamp certificate, the Collector shall not issue the substituted stamp certificate unless it can be shown to the satisfaction of the Collector that all facts and circumstances affecting the liability of the original instrument to duty has been fully and truly set forth, and the amount of duty chargeable has been paid.

(2) The application for the issuance of a substituted stamp certificate under subsection (1) shall be made within six years from the date of execution of such instrument.

(3) For the purpose of subsection (1), the Collector shall issue the substituted stamp certificate upon payment of a fee of one hundred ringgit for each substituted stamp certificate.”.

Substitution of section 12

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

“Duplicate and counterparts

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 it is shown to the Collector that the original instrument has been stamped with the proper duty.”.

Amendment of section 12A

15. Section 12A of the principal Act is amended—

(a) by substituting for the words “Item 32(a)” the words “item 1 of Part 1”; and

(b) by inserting after the word “being” the words “sold,”.

Amendment of section 15

16. Section 15 of the principal Act is amended—

(a) in subparagraph (1)(c)(ii), by substituting for the words “Item 32(a) or (b)” the words “item 1 or 2 of Part 1”;

(b) in subsection (5)—

(i) in paragraph (b), by substituting for the words “two years” the words “three years”;

- (ii) in paragraph (c)—
 - (A) by substituting for the words “two years” the words “three years”; and
 - (B) by inserting after the word “liquidation” the words “or in compliance with Government policy on capital participation in industry”;
- (c) in subsection (6), by substituting for the words “duty paid has been impressed” the words “duty has been paid”; and
- (d) by inserting after subsection (6) the following subsection:
 - “(6A) Where any claim for exemption from duty under this section has been allowed and any of the circumstances specified under subsection (5) occurs, each company which was a party to the instrument shall notify the Collector of the circumstances of the occurrence within thirty days from the date of the occurrence.”.

Amendment of section 15A

17. Section 15A of the principal Act is amended—

- (a) in subsection (1), by substituting for the words “Item 32(a) or (b)” the words “item 1 or 2 of Part 1”;
- (b) in subsection (4)—
 - (i) by substituting for the comma at the end of paragraph (c) the words “; or”; and
 - (ii) by inserting after paragraph (c) the following paragraphs:
 - “(d) the transferee company disposes of the asset that it has acquired within three years from the date of the conveyance or transfer of the asset; or

- (e) the transferor and the transferee are associated within the meaning of this section for a period of three years from the date of the conveyance or transfer;” and

(c) by inserting after subsection (4) the following subsections:

“(5) Where any claim for exemption from duty under this section has been allowed, it is subsequently found that any declaration or other evidence furnished in support of the claim is untrue, the exemption from duty shall be revoked and duty shall be chargeable, together with interest thereon at the rate of six per centum per annum, from the date on which the duty which the conveyance or transfer ought to be stamped with the proper amount of duty.

(6) Where any claim for exemption from duty under this section has been allowed and any of the circumstances specified under subsection (4) occurs, each company which was a party to the instrument shall notify the Collector in writing of the circumstances of the occurrence within thirty days from the date of the occurrence.”.

Amendment of section 16

18. Section 16 of the principal Act is amended by deleting subsection (2).

Amendment of section 17

19. Section 17 of the principal Act is amended in subsections (1) and (2), by substituting for the words “Item 32(a)” wherever appearing the words “item 1 of Part 1”.

Amendment of section 20

20. Subsection 20(4) of the principal Act is amended by substituting for the words “Item 32(a)” the words “item 1 of Part 1”.

Amendment of section 20A

21. Section 20A of the principal Act is amended—

(a) by renumbering the existing provision as subsection (1);

(b) in subsection (1) as renumbered—

(i) by substituting for the words “any consideration is paid or given, or agreed to be paid or given, for equality” the words “with or without consideration”; and

(ii) in paragraph (a), by substituting for the words “same *ad valorem* duty as a conveyance on sale for the consideration, and with that duty only” the words “*ad valorem* duty as if it were a conveyance on sale”; and

(c) by inserting after subsection (1) the following subsection:

“(2) Notwithstanding subsection (1), where an instrument is chargeable with a duty in respect of an exchange of any real property for any real property or upon the partition or division of any real property, and no consideration is paid or given, or agreed to be paid or given, the instrument shall be chargeable with the duty of ten ringgit only if—

(a) in such partition or division both transferor and transferee are the original owner of the real property;

(b) such exchange of real property is between any person and a Ruler of a State or the Government of Malaysia or of any State; or

(c) such exchange of real property is between husband and wife, parent and child, grandparent and grandchild or among siblings.”.

Amendment of section 20B

22. Section 20B of the principal Act is amended—

- (a) in subsection (1), by substituting for the words “shall contain an affidavit of the transferee certifying” the words “the transferee shall declare in the return”; and
- (b) in subsection (2), by substituting for the words “Item 32(a)” the words “item 1 of Part 1”.

Substitution of section 21

23. The principal Act is amended by substituting for section 21 the following section:

“Certain contracts to be chargeable as conveyances on sale

21. (1) Any contract or agreement made in Malaysia for the sale of any—

- (a) equitable estate or interest in any property;
- (b) estate or interest in any property; or
- (c) stock or marketable securities,

shall be charged with the *ad valorem* duty to be paid by the purchaser as conveyance on the sale of the estate, interest in any property, stock or marketable securities contracted or agreed to be sold.

(2) Subsection (1) shall not apply to a transaction where there is no contract or agreement made in Malaysia and the transaction is effected by an instrument whereby any—

- (a) equitable estate or interest in any property;
- (b) estate or interest in any property; or
- (c) stock or marketable securities,

is conveyed or transferred to any person, and such instrument shall be charged with the same *ad valorem* duty, to be paid by the purchaser, as if it were an actual conveyance on sale of the estate, interest in any property, stock or marketable securities contracted or agreed to be sold.

(3) Any contract or agreement made in Malaysia for the sale of any of the following shall not be deemed as instrument of conveyance on sale:

- (a) property situated outside Malaysia;
- (b) goods, wares or merchandise; or
- (c) ship or vessel, or part interest, share or property of or in any ship or vessel.

(4) Subject to item 1 of Part 1 of the First Schedule, where the purchaser has paid the *ad valorem* duty under subsection (1) and, before having obtained conveyance or transfer of the property, enters into a contract or agreement for the sale of the same, the subsequent contract or agreement shall be charged with *ad valorem* duty in accordance with item 1 of Part 1 of the Schedule as if it were an actual conveyance on sale to the sub-purchaser.

(5) Where any purchaser or sub-purchaser or any other person on his behalf or by his direction, has paid duty according to the value upon any assignment, contract or agreement under subsection (1), the conveyance or transfer made to the purchaser or sub-purchaser, as the case may be, shall be chargeable with a fixed duty of ten ringgit.

(6) Subject to subsection (5), the *ad valorem* duty paid upon any such contract, agreement or assignment may be refunded by the Collector.

(7) The application for refund by the purchaser or sub-purchaser shall be made within twelve months—

- (a) after the contract, agreement or assignment has been rescinded, annulled or cancelled; and
- (b) the instrument in respect of such contract, agreement or assignment has not been registered in accordance with any written law.

(8) Any reference in this section to the sale of any property shall exclude any sale of property pursuant to a scheme which is in accordance with the principles of Shariah where such sale is strictly required for the purpose of complying with such principles.”.

Amendment of section 22

24. Section 22 of the principal Act is amended by deleting the words “warrant of attorney,”.

Amendment of section 26

25. Subsection 26(2) of the principal Act is amended by deleting the words “rentcharge,”.

Amendment of section 29A

26. Section 29A of the principal Act is amended by substituting for the words “Item 22(1) or Item 27(a)” the words “subitem 1(a) of Part 2 or item 1 of Part 3”.

Amendment of section 32

27. Section 32 of the principal Act is amended—

(a) in subsection (2), by substituting for the words “the note shall be deemed to be as many contract notes as there are descriptions of stocks or securities sold or purchased” the words “the note shall be made in respect of each description of stock or marketable security and shall be separately and distinctly charged as a separate instrument for each description of stock or marketable security.”; and

(b) by inserting after subsection (2) the following subsections:

“(3) The “description of stock or marketable security” mentioned in subsection (2) shall refer to each counter of stock or marketable security transacted in the day.

(4) Subsection 40A(2) shall not apply to this section.”.

Amendment of section 33

28. Paragraph 33(a) of the principal Act is amended by substituting for the words “first column” and “second column” the words “second column” and “fourth column” respectively.

New section 33A

29. The principal Act is amended by inserting after section 33 the following section:

“Power to appoint agents

33A. (1) The Collector may, if he thinks fit, appoint any person to be the agent of any other person for all or any of the purposes of this Act.

(2) Where any person so appointed under subsection (1) to be the agent of another person he shall be required to pay any duty or penalty due under this Act on behalf of that other person from any moneys including sale proceeds or rents, which may be held by him for or due by him to the other person.

(3) In default of payment by an agent appointed under subsection (1), the duty or penalty due shall be a debt due to the Government.

(4) For the purpose of this section, the Collector may require any person to give him information as to any moneys, funds or other assets which may be held by him for, or of any moneys due by him to, any other person.

(5) Where any person appointed by the Collector to be the agent of any other person under subsection (1) is aggrieved by such appointment, he may, by notice in writing to the Collector within fourteen days after the date of the appointment, or within such further times as the Collector in his discretion may allow, object to the appointment.

(6) The Collector shall examine the objection and may cancel, vary or reconfirm the appointment.”.

Substitution of section 35

30. The principal Act is amended by substituting for section 35 the following section:

“Exemptions

35. The duty which would be chargeable under this Act shall not be chargeable on the following instruments and all counterparts of such instruments:

(a) all instruments made or executed by or on behalf of or in favour of a Ruler of a State or the Government of Malaysia or of any State where the Ruler of a State or the Government of Malaysia or of any State would be liable to pay the duty chargeable to the instruments but the exemption shall not extend to—

(i) any instrument signed or executed by any officer of Amanah Raya Berhad (or in the case of Sabah, by Administrator General) or by a receiver appointed by the court;

(ii) any instrument rendered necessary by any written law or order of court; or

(iii) a sale made for the recovery of an arrear of revenue or in satisfaction of a decree or order of court;

(b) any grant or lease made on behalf of the Government by virtue of the National Land Code [*Act 56 of 1965*], the National Land Code (Penang and Malacca Titles) Act 1963 [*Act 518*], the Land Ordinance of Sabah [*Sabah Cap. 68*] or the Land Ordinance of Sarawak [*Sarawak Cap. 81*];

(c) any instrument for the sale, transfer or other disposition, either absolutely or by way of a charge or otherwise, of any ship or vessel or any part, interest, share or

property of or in any ship or vessel registered or licensed under the Merchant Shipping Ordinance 1952 [*Ord. 70 of 1952*] or under any law for the time being in force in any part of Malaysia;

- (d) any instrument relating exclusively to immovable property situated out of Malaysia or relating exclusively to things done or to be done out of Malaysia;
- (e) any instrument relating solely to the business of any society registered under any written law relating to co-operative societies and the instrument is executed by an officer or member of the society where the duty would be payable by that officer or member; and
- (f) an instrument executed pursuant to a scheme of financing approved as a scheme which is in accordance with the principles of Shariah (where the instrument is an additional instrument strictly required for the purpose of compliance with those principles but which will not be required for any other scheme of financing), by—
 - (i) Bank Negara Malaysia as defined in subsection 2(1) of the Central Bank of Malaysia Act 2009 [*Act 701*];
 - (ii) the Securities Commission established under section 3 of the Securities Commission Malaysia Act 1993 [*Act 498*];
 - (iii) the Labuan Financial Services Authority established under section 3 of the Labuan Financial Services Authority Act 1996 [*Act 545*]; or
 - (iv) the Malaysia Co-operative Societies Commission established under section 3 of the Malaysia Co-operative Societies Commission Act 2007 [*Act 665*].”.

New sections 35A and 35B

31. The principal Act is amended by inserting in Part V before section 36 the following sections:

“Return

35A. (1) Subject to this Act, every person shall furnish to the Collector in accordance with this Act a return in the prescribed form together with the instrument which is executed and chargeable with duty.

(2) This section shall not apply to section 9 and an instrument to be cancelled by the person mentioned in the Second Schedule.

Duty to keep record

35B. Where an instrument has been stamped or ought to be stamped in accordance with this Act, the person who is liable to pay the duty chargeable on such instrument shall keep the instrument and all relevant documents in connection with such instrument for a period of seven years from the date the duty is paid.”.

Substitution of section 36

32. The principal Act is amended by substituting for section 36 the following section:

“Adjudication and assessment as to proper stamp

36. (1) The Collector shall assess the duty—

- (a) on the return furnished by any person;
- (b) on the return furnished by any person by an electronic medium and that person has made an option under paragraph 77A(1A)(a); or
- (c) on the instrument listed under the Second Schedule (except an instrument in respect of a cheque referred to under section 47 which cannot be stamped after execution).

(2) For the purposes of subsection (1), the Collector may require any of the following:

- (a) an abstract of the instrument;
- (b) an affidavit setting out all the facts and circumstances affecting the liability of the instrument to chargeable duty or the amount of such chargeable duty; or
- (c) any other evidence which he considers necessary for the adjudication or determination of duty.

(3) The Collector may refuse to assess the duty until such abstract, affidavit or other evidence has been furnished accordingly.

(4) The Collector may make an assessment on the return furnished by a person under subsection (1) and the assessment shall be due and payable within fourteen days from the date of assessment.

(5) Where a person has furnished a return by an electronic medium and has made an option in accordance with paragraph 77A(1A)(b), the Collector shall be deemed to have made on the day on which the return is furnished, an assessment which shall specify the duty or penalty chargeable on the instrument.

(6) For the purposes of this Act, where the Collector is deemed to have made an assessment under subsection (5)—

- (a) the return referred to in that subsection shall be deemed to be an assessment; and
- (b) the assessment which is deemed shall be due and payable within fourteen days from the date the return is furnished.

(7) Where an instrument which is chargeable with stamp duty has not been duly stamped, the Collector shall make an assessment of the amount of duty which ought to be assessed on the instrument and the person shall be liable for the payment of the duty so assessed.

(8) Notwithstanding this section, the Collector shall have the power to make an assessment under section 50A and where the Collector makes an assessment under section 50A the duty which is deemed to be the duty payable under subsection (5) shall be disregarded.”.

Deletion of sections 36A, 36AA, 36B and 36C

33. The principal Act is amended by deleting sections 36A, 36AA, 36B and 36C.

Amendment of section 37

34. Section 37 of the principal Act is amended—

- (a) in subsection (1), by deleting the words “, 36A, 36AA or 36B” and “initial duty, advanced duty or additional duty, as the case may be.”; and
- (b) in paragraph (1)(b), by substituting for the words “such sections, as the case may be,” the words “such section”.

Deletion of section 38

35. The principal Act is amended by deleting section 38.

Amendment of section 38A

36. Section 38A of the principal Act is amended—

- (a) in subsections (1), (2), (4) and (8), by deleting the words “or additional assessment” wherever appearing; and
- (b) in subsection (6), by deleting the words “or additionally” and “or additional” wherever appearing.

Amendment of section 39

37. Section 39 of the principal Act is amended in subsections (4) and (5) by deleting the words “or additional assessment”.

Amendment of section 40

38. Section 40 of the principal Act is amended by substituting for the words “Where an instrument is brought to the Collector pursuant to subsection 36(1), the” the word “An”.

New section 40A

39. The principal Act is amended by inserting after section 40 the following section:

“Proper duty

40A. (1) Subject to this Act, the amount of any moneys payable to the Collector whether by way of duties or penalties shall be rounded to the nearest ringgit.

(2) Notwithstanding subsection (1), an amount of ten ringgit is imposed as duty for each instrument where the duty is less than ten ringgit.”.

Amendment of section 42

40. Subsection 42(1) of the principal Act is amended by deleting the words “or promissory note”.

Amendment of section 43

41. Section 43 of the principal Act is amended—

(a) in the shoulder note, by substituting for the words “**Bills, cheques or notes**” the word “**Cheques**”;

(b) in subsection (1), by substituting for the words “or promissory note drawn or made” the word “drawn”;

(c) in subsections (2) and (3), by deleting the words “or note” wherever appearing; and

(d) in subsection (5)—

(i) by substituting for the words “or promissory note drawn or made” the word “drawn”;

(ii) in subparagraph (b)(i)—

(A) by deleting the words “five per centum of”;
and

(B) by substituting for the words “three months”
the words “ninety days”;

(iii) in subparagraph (b)(ii)—

(A) by substituting for the words “ten per centum”
the words “two times”;

(B) by substituting for the words “three months”
the words “ninety days”; and

(C) by substituting for the words “six months”
the words “one hundred and eighty days”;
and

(iv) in subparagraph (b)(iii), by substituting for the words “twenty per centum” the words “four times”.

Amendment of section 44

42. Section 44 of the principal Act is amended in the shoulder note by substituting for the words “**Bills of exchange and cheques**” the word “**Cheques**”.

Amendment of section 45

43. Section 45 of the principal Act is amended in the shoulder note by deleting the words “**bills or**”.

Amendment of section 47

44. Section 47 of the principal Act is amended—

(a) by deleting the words “or any other”; and

(b) by substituting for the words “or promissory note drawn or made” the word “drawn”.

Amendment of section 47A

45. Section 47A of the principal Act is amended—

(a) in subsection (1)—

(i) in paragraph (a)—

(A) by deleting the words “five per centum of”;
and

(B) by substituting for the words “3 months” the
words “ninety days”;

(ii) in paragraph (b)—

(A) by substituting for the words “ten per centum”
the words “two times”;

(B) by substituting for the words “3 months” the
words “ninety days”; and

(C) by substituting for the words “6 months” the
words “one hundred and eighty days”; and

(iii) in paragraph (c), by substituting for the words
“twenty per centum” the words “four times”;
and

(b) by inserting after subsection (2) the following subsection:

“(3) Where an instrument is not duly stamped in
accordance with the First Schedule, the Collector may
impose a penalty treble the amount of deficient duty.”.

Amendment of section 48

46. Section 48 of the principal Act is amended—

(a) by renumbering the existing provision as subsection (1);

(b) in subsection (1) as renumbered—

(i) by substituting for the comma at the end of paragraph (d) a full stop; and

(ii) by deleting the words “and shall be certified by the Collector”; and

(c) by inserting after subsection (1) the following subsection:

“(2) Where the payment of penalty is denoted on the instrument by means of an adhesive stamp, the payment shall be certified by the Collector.”.

Amendment of section 50

47. Section 50 of the principal Act is amended—

(a) by renumbering the existing provision as subsection (1); and

(b) by inserting after subsection (1) as renumbered the following subsections:

“(2) The Collector and any employee of the Inland Revenue Board of Malaysia authorized by the Collector shall be deemed to be a public officer authorized by the Minister under subsection 25(1) of the Government Proceedings Act 1956 [*Act 359*], in respect of all proceedings under this section.

(3) In a suit under this section, the production of a certificate signed by the Collector giving the name and address of the defendant and the amount of the duty or penalty due from him shall be sufficient authority for the court to give judgment for that amount.”.

New section 50B

48. The principal Act is amended by inserting after section 50A the following section:

“Relief in respect of error or mistake

50B. If any person who has paid duty for any instrument alleges that the duty relating to that instrument is excessive by reason of some error or mistake made by him, he may within twelve months in the case of executed instrument after the date of the instrument, or, if it is not dated, within twelve months after the execution in accordance with section 47 by the person whom it was first or alone executed, make an application in writing to the Collector for relief.”.

Amendment of section 51

49. Subsection 51(1) of the principal Act is amended by substituting for the words “person in charge of a public office” the words “public officer including officer of a statutory body”.

Amendment of section 55

50. Section 55 of the principal Act is amended—

(a) in subsection (2), by deleting the words “and a further duty of ten ringgit by way of adjudication fee”; and

(b) by deleting subsection (3).

Amendment of section 56

51. Section 56 of the principal Act is amended by deleting the words “or of any other written law in force at the time”.

New section 56A

52. The principal Act is amended by inserting after section 56 the following section:

“Recovery of duty from executor

56A. (1) Where a person dies and any duty, penalty or sum due from him under this Act has not been paid, the Collector shall recover the duty, penalty or sum so payable from the executor of the estate of the deceased person.

(2) Any duty, penalty or sum shall be payable by the executor of the estate of the deceased person in the like manner and to the like amount as the deceased person would be assessed with the duty if he had not died.

(3) The amount of any duty, penalty or sum payable by the executor of the estate of the deceased person by virtue of this section shall be a debt due from and payable out of the estate of the deceased person.

(4) The executor of the estate of the deceased person shall not distribute any of the assets of the estate unless the executor has made provision (in so far as the executor is able to do so out of those assets) for the payment in full of any duty, penalty or sum which the executor knows or might reasonably expect to be payable by him under this section.

(5) Any executor who fails to comply with subsection (4) commits an offence and shall, on conviction, be liable to pay a penalty equal to the amount of the duty, penalty or sum to which the failure relates, and where there are several executors the executors shall be jointly and severally liable.

(6) For the purpose of this section, “executor” includes the administrator or other person managing the estate of a deceased person.”.

Amendment of section 57

53. Paragraph 57(f) of the principal Act is amended—

- (a) in subparagraph (iv), by inserting after the words “any person” the words “, not including the person liable to pay the duty,”; and
- (b) in subparagraph (vi), by inserting after the words “otherwise not performed” the words “by a party, other than the purchaser, to that agreement”.

Amendment of section 59

54. Section 59 of the principal Act is amended by deleting the words “, unused”.

Amendment of section 60

55. Section 60 of the principal Act is amended by substituting for the words “shall be liable to a fine not exceeding five hundred ringgit” the words “commits an offence and shall, on conviction, be liable to a fine not exceeding six thousand ringgit”.

Amendment of section 61

56. Section 61 of the principal Act is amended by substituting for the words “shall be liable to a fine not exceeding two thousand five hundred ringgit” the words “commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit”.

Amendment of section 63

57. Section 63 of the principal Act is amended—

- (a) in subsection (1), by substituting for the words “shall be liable to a fine not exceeding one thousand five hundred ringgit” the words “commits an offence and shall, on conviction, be liable to a fine not exceeding six thousand ringgit”;

(b) by deleting subsection (3); and

(c) in subsection (4), by substituting for the words “*Schedule A*” the words “*the First Schedule*”.

Amendment of section 64

58. Section 64 of the principal Act is amended by substituting for the words “shall be liable to a fine not exceeding one thousand five hundred ringgit” the words “commits an offence and shall, on conviction, be liable to a fine not exceeding six thousand ringgit”.

Amendment of section 65

59. Section 65 of the principal Act is amended—

(a) in the shoulder note, by substituting for the word “**bills**” the words “**promissory note**”; and

(b) by substituting for the words “shall be liable to a fine not exceeding two thousand five hundred ringgit” the words “commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit”.

Amendment of section 67

60. Paragraph 67(b) of the principal Act is amended by substituting for the words “shall be liable to a fine not exceeding one thousand ringgit” the words “commits an offence and shall, on conviction, be liable to a fine not exceeding four thousand ringgit”.

Amendment of section 68

61. Section 68 of the principal Act is amended—

(a) in subsections (1) and (2), by substituting for the words “shall for every such offence be liable to a fine not exceeding one thousand ringgit” the words “commits an offence and shall, on conviction, be liable to a fine not exceeding four thousand ringgit”; and

- (b) in subsection (3), by substituting for the words “shall for such offence, in addition to any other fine or penalty to which he is liable, be liable to a fine not exceeding one thousand ringgit” the words “commits an offence and shall, on conviction, in addition to any other fine or penalty to which he is liable, be liable to a fine not exceeding four thousand ringgit”.

Amendment of section 69

62. Section 69 of the principal Act is amended in subsections (1) and (2), by substituting for the words “shall be liable to a fine not exceeding one thousand five hundred ringgit” the words “commits an offence and shall, on conviction, be liable to a fine not exceeding six thousand ringgit”.

Amendment of section 71

63. Section 71 of the principal Act is amended by substituting for the words “shall, for every such offence, be liable to a fine not exceeding one thousand ringgit” the words “commits an offence and shall, on conviction, for every such offence, be liable to a fine not exceeding ten thousand ringgit”.

Amendment of section 72

64. Subsection 72(1) of the principal Act is amended by substituting for the words “shall, in addition to any other fine or penalty to which he may be liable, be liable to a fine not exceeding one thousand ringgit” the words “commits an offence and shall, on conviction, in addition to any other fine or penalty to which he is liable, be liable to a fine not exceeding ten thousand ringgit”.

Amendment of section 72A

65. Section 72A of the principal Act is amended by substituting for the words “shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand ringgit” the words “commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit”.

New sections 72B and 72C

66. The principal Act is amended by inserting after section 72A the following sections:

“Penalty for failure to keep record and other offences

72B. Any person who, without reasonable excuse—

- (a) fails to keep and retain the books, records and documents as required under subsection 9(7);
- (b) fails to keep the instrument and all relevant documents as required under section 35B;
- (c) fails to give the notice required by subsection 15(6A);
- (d) fails to give the notice required by subsection 15A(6); or
- (e) fails to furnish a return in accordance with section 35A,

commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.

Further order by court

72c. Where a person has been convicted of an offence under this Act, the court may make a further order that the person shall comply with the relevant provision of this Act against which the offence has been committed within thirty days, or such other period as the court deems fit, from the date the order is made.”.

Amendment of section 74

67. Section 74 of the principal Act is amended by substituting for the words “shall be liable to a fine of five thousand ringgit” the words “commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.”.

Amendment of section 75

68. Section 75 of the principal Act is amended—

- (a) by renumbering subsection (1) as section 75; and
- (b) by deleting subsections (2) and (3).

New section 75A

69. The principal Act is amended by inserting after section 75 the following section:

“Compounding of offences

75A. (1) The Minister of Finance may make regulations prescribing—

- (a) any offence under this Act or its subsidiary legislation as an offence which may be compounded;
- (b) the criteria for compounding a compoundable offence; and
- (c) the method and procedure for compounding a compoundable offence.

(2) The Collector may, with the consent in writing of the Public Prosecutor, at any time before a charge is being instituted compound any of the offences prescribed in the regulations as an offence which may be compounded by making a written offer to the person reasonably suspected of having committed the offence to compound the offence upon payment to the Collector of a sum of money not exceeding fifty per centum of the amount of maximum fine to which the person would have been liable to if he had been convicted of the offence, within such time as may be specified in his written offer.

(3) An offer under subsection (2) may be made at any time after the offence has been committed but before any prosecution for it has been instituted, and where the amount specified in the offer is not paid within the time specified in the offer, or such extended time as the Collector may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) Where an offence has been compounded under subsection (2), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made, and any document or thing seized in connection with the offence may be released by the Collector, subject to such terms and conditions as he thinks fit.

(5) All sums of moneys received by the Collector under this section shall be paid into and form part of the Federal Consolidated Fund.”.

New section 76A

70. The principal Act is amended by inserting after section 76 the following section:

“Identification of officials

76A. (1) Any person exercising the right of access or the right to take possession conferred by section 3A shall carry a warrant in the prescribed form issued by the Collector (or, in the case of a warrant issued to the Collector, by a Deputy Collector) which shall identify the holder and his office and shall be produced by the holder on demand to any person having reasonable grounds to make the demand.

(2) Where a person purporting to be a public officer or an employee of the Inland Revenue Board of Malaysia exercising functions under this Act produces a warrant in the form prescribed under subsection (1) or any written identification or authority, then, until the contrary is proved, the warrant, identification or authority shall be presumed to be genuine and he shall be presumed to be the person referred to therein.”.

Amendment of section 77A

71. Section 77A of the principal Act is amended—

(a) in paragraph (1)(d), by deleting the words “in a case where section 37 applies”;

(b) by inserting after subsection (1) the following subsection:

“(1A) Where a registered person has furnished a return by an electronic medium, that person may make an option—

(a) that the return is assessed by the Collector; or

(b) that the return is deemed to be assessed by the Collector based on the information furnished in the return.”; and

(c) in subsection (2), by inserting after the words “electronic medium” the words “under section 77c”.

New sections 77c and 77d

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

“Registered person

77c. (1) Any person may make an application to the Collector to be a registered person to use the electronic medium subject to any terms as the Collector thinks fit.

(2) The registration obtained under subsection (1) shall remain in force until it is cancelled by the Collector.

Forms

77d. The Collector may determine such forms as may be required for the purposes of this Act.”.

Substitution of section 78

73. The principal Act is amended by substituting for section 78 the following section:

“Power of Minister to give directions to Collector

78. The Minister may give directions to the Collector which are not contrary to the provisions of this Act and the Collector shall give effect to the directions.”.

Substitution of First Schedule

74. The principal Act is amended by substituting for the First Schedule the following Schedule:

“FIRST SCHEDULE

[Section 4, subsection 4A(1), paragraph 4A(2)(a), subsection 7(3), subsection 9(2), section 12A, section 15, subsection 15A(1), subsections 17(1) and (2), subsection 20(4), subsection 20B(2), subsection 21(4), section 29A, subsection 30(6), subsection 47A(3), subsection 63(4) and paragraph 82(b)]

INSTRUMENTS CHARGEABLE WITH STAMP DUTY

PART 1

CONVEYANCE, ASSIGNMENT, TRANSFER, ABSOLUTE BILL OF SALE, CONTRACT NOTE, RELEASE OR RENUNCIATION

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>
1.	Property (except stock, shares, marketable security and accounts receivables or book debts of the kind mentioned in item 4):	If the consideration or 1% on the amount market value of the or value of the property (whichever consideration is higher) does not exceed RM100,000
	(a) on sale	If the consideration or RM1,000 plus 2% on market value of the any amount by which property (whichever the amount or value is higher) exceeds of the consideration RM100,000 but not exceeds RM100,000 exceeding RM500,000
	(b) by way of gift or <i>hibah</i>	
	(c) by way of settlement	If the consideration or RM9,000 plus 3% on market value of the any amount by which property (whichever the amount or value is higher) exceeds of the consideration RM500,000 exceeds RM500,000
	(d) by way of trust	
	(e) on exchange of real property	

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>
	<p><i>Exception on exchange of real property under subitem (1)(e)</i></p> <p>Where no consideration is paid or given or agreed to be paid or given for equality in the case of:</p> <p>(i) partition or division where both transferor and transferee are the original owners of the property</p> <p>(ii) exchange of real property between any person and a Ruler of a State or the Government of Malaysia or of any State</p> <p>(iii) exchange of real property between husband and wife, parent and child, grandparent and grandchild or siblings</p>	RM10
	<p>(f) By way of security or any security other than a marketable security</p>	RM10
2.	<p>Stock, shares or marketable securities:</p> <p>(a) on sale</p> <p>(b) by way of gift or <i>hibah</i></p> <p>(c) by way of settlement</p> <p>(d) by way of trust</p>	0.3% of the price or value of any stock, shares or marketable securities on the date of transfer, whichever is the greater

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>
	<i>Exception for Item 2</i>	
	Shares in unquoted companies on Bursa Malaysia	0.1% of the price or value of any shares on the date of transfer, whichever is the greater
3.	Contract note relating to the sale of any stock, shares or marketable securities in companies incorporated in Malaysia or elsewhere	0.1% of the value of any stock, shares or marketable securities on the date of transaction
4.	Accounts receivables or book debts through absolute sale, under a factoring agreement to—	RM10
	(a) a bank or investment bank licensed under the Financial Services Act 2013	
	(b) an Islamic bank licensed under the Islamic Financial Services Act 2013	
	(c) an institution licensed under the Development Financial Institutions Act 2002	
	(d) any other institution which carries out factoring business approved by the Minister	
5.	Annuity	RM10

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>
6.	Any property—	RM10
	(a) for the purpose of effectuating the appointment of a new trustee or the retirement of a trustee although no new trustee is appointed	
	(b) where the transaction is between trustees and the beneficial interest in the property does not pass	
7.	In any other case	RM10

Exemptions to Part 1

- (a) Transfers on sale of land for the recovery of land revenue;
- (b) Transfers by endorsement—
 - (i) of a bill of exchange, cheque or promissory note
 - (ii) of a bill of lading, warrant for goods or other mercantile document of title to goods
 - (iii) of a policy of insurance other than a policy of life insurance
 - (iv) of charges on rates and taxes authorised by any written law for the time being in force in Malaysia
 - (v) of securities of the Government of Malaysia or of any State
- (c) Transfer of units of a unit trust
- (d) Transfer or assignment on sale of any copyright, trade mark, patent or any similar right
- (e) Transfer of property under a deceased estate to the beneficiaries of that estate
- (f) Renunciation of property under a deceased estate by a beneficiary where he releases his right to the property to another beneficiary from the same estate.

PART 2

ASSIGNMENT, BOND, CHARGE OR MORTGAGE, AGREEMENT FOR A CHARGE OR MORTGAGE (INCLUDING THAT IN ACCORDANCE WITH THE PRINCIPLES OF SHARIAH), COVENANT, DEBENTURE, BILL OF SALE, MARKETABLE SECURITY

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>	
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>	
1.	Security instrument—		
	(a) by way of security and being the only or principal or primary security (other than an equitable mortgage or an assignment of receivables or the kind mentioned in subitem (k)) for the payment or repayment of money—		
	(i) where the loan is to a small and medium enterprise or financing is provided to a small and medium enterprise in accordance with the principles of Shariah	For an amount of the aggregate loans or of the aggregate financing in accordance with the principles of Shariah in a calendar year does not exceed RM250,000	0.05% on the amount of the aggregate loans or of the aggregate financing
		For each additional ringgit but not exceeding RM1,000,000	0.25% on the amount of the aggregate loans or of the aggregate financing exceeding RM250,000
		For each additional ringgit exceeding RM1,000,000	0.5% on the amount of the aggregate loans or of the aggregate financing exceeding RM1,000,000

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>
	(ii) where the loan is a foreign currency loan or the financing was made in accordance with the principles of Shariah in currencies other than the ringgit	0.5% of the loan or financing amount but the total duty payable shall not exceed RM1,000
	(iii) other than payment or repayment as mentioned under (i) or (ii)	0.5% of the loan or financing amount
(b)	by way of security and being the only or principal or primary security for the transfer or retransfer of stock	0.5% of the loan or financing amount
(c)	by way of security and being a collateral or auxiliary or additional or substituted security (other than an equitable mortgage) or by way of further assurance for the above-mentioned purpose where the principal or primary security is duly stamped	RM10

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>
(d)	by way of security and being a charge or mortgage executed in pursuance of a duly stamped agreement for the same, on production of such agreement to the Collector	RM10
(e)	an equitable mortgage by way of security	One-half of the duty which would be chargeable on a mortgage for the amount secured
(f)	annuity by way of security	0.5% of the amount deemed to be secured thereby
(g)	being a marketable security not transferable by delivery, for or in respect of the money secured	0.5% of the money secured
(h)	being a marketable security transferable by delivery	0.5% of the nominal value of the security
(i)	release or renunciation by way of security	0.5% of the amount released or renunciated
(j)	by way of security and being a transfer, assignment or disposition of any charge or mortgage, bond, covenant or debenture (not being a marketable security) or of any money or stock secured by any such instrument	40% of the duty which would be chargeable on a charge or mortgage for the amount transferred

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>
	Note: Where any further money is added to the money already secured	0.5% of the further money added
(k)	a charge or a mortgage on or an assignment by way of security of accounts receivables to—	RM10
	(i) a bank or investment bank licensed under the Financial Services Act 2013	
	(ii) an Islamic bank licensed under the Islamic Financial Services Act 2013	
	(iii) an institution licensed under the Development Financial Institutions Act 2002	
	(iv) any other institution which carries out a factoring business approved by the Minister	
	under an agreement for discounting invoices or hire purchase receivables	

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>
	(l) letter of hypothecation	RM10
	(m) trust receipt granted on the occasion of a loan or overdraft on goods, if unattested	RM10
2.	Re-conveyance of charged or mortgaged property, Re-assignment, Release, Discharge, Surrender or Renunciation of any security or of the benefit thereof or of the money thereby secured	RM10
3.	Bond, Charge, Mortgage or Other Instrument executed by way of Indemnity or of Security for the due execution of an office, or the discharge of liabilities, arising out of the execution thereof, or to account for money received by virtue thereof	RM10
	<i>Exemptions</i>	
	(a) bond executed by an officer of the Government or his surety to secure the due execution of an office or the due accounting for money or other payments secured by virtue thereof	
	(b) bonds required to be executed under the provisions of the Criminal Procedure Code	
4.	In any other case	RM10

PART 3BOND, COVENANT, LICENCE, LOAN, SERVICES, EQUIPMENT LEASE AGREEMENT
OR INSTRUMENT OF ANY KIND WHATSOEVER

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>
1.	Being the only or principal or primary security—	
	(a) for any annuity (except upon the original creation thereof by way of sale or security, and except a superannuation annuity)—	
	(i) for a definite or certain period so that the total amount to be ultimately payable can be ascertained; or	0.5% of the annuity
	(ii) for the term of life or any other indefinite period,	1% of the annuity
	(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—	
	(i) for a definite or certain period so that the total amount to be ultimately payable can be ascertained	0.5% of such total amount payable
	(ii) for the term of life or any other indefinite period	1% of such total amount payable

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>
	(c) for any instrument where the total amount payable cannot be ascertained	RM500
2.	Being a collateral or auxiliary or additional or substituted security for any of the above mentioned purposes where the principal or primary instrument is duly stamped—	
	(a) where the total amount to be ultimately payable can be ascertained	RM10
	(b) in any other case	0.25% of annuity or sum periodically payable
3.	Being a grant or contract for payment of a superannuation annuity, that is to say a deferred life annuity granted or secured to any person in consideration of annual premiums payable until he attains a specified age, and so to commence on his attaining that age	RM10
4.	Being the security for payment or repayment of money made for the purpose of pursuing higher education in a higher educational institution	RM10
5.	Being the security for securing the payment for the provision of services or facilities or other matters or things in connection with the lease of any immovable property	Where the lease is for a period not exceeding one year 0.4% of average rent and other consideration calculated for the whole year
		Where the lease is for a period exceeding one year but not exceeding three years 0.8% of average rent and other consideration calculated for the whole year

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>
		Where the lease is for a period exceeding three years or for any indefinite period
		1.6% of average rent and other consideration calculated for the whole year
6.	Being the security for securing the payment or repayment of money for the purchase of goods (within the meaning given under the First Schedule of the Hire Purchase Act 1967 [Act 212] in accordance with the principles of Shariah	RM10
7.	In any other case	RM10

PART 4

LEASE OR AGREEMENT FOR LEASE

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>
1.	Lease or agreement for lease under the principle of Al-Ijarah for the purpose of financing or securing repayment of money	0.5% of total amount of lease payable
2.	Lease or agreement for a lease of any immovable property and for securing the payment for the provision of services or facilities or to other matters or things in connection with such lease:	
(a)	without fine or premium	Where the lease is for a period not exceeding one year
		0.4% of average rent and other consideration calculated for the whole year

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>	
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>	
		Where the lease is for a period exceeding one but not exceeding three years	0.8% of average rent and other consideration calculated for the whole year
		Where the lease is for a period exceeding three years or for any indefinite period	1.6% of average rent and other consideration calculated for the whole year
(b)	in consideration of a fine or premium and without rent	If the consideration or market value of the property (whichever is higher) does not exceed RM100,000	1% on the amount or value of the consideration
		If the consideration or market value of the property (whichever is higher) exceeds RM100,000 but not exceeding RM500,000	RM1,000 plus 2% on any amount by which the amount or value of the consideration exceeds RM100,000
		If the consideration or market value of the property (whichever is higher) exceeds RM500,000	RM9,000 plus 3% on any amount by which the amount or value of the consideration exceeds RM500,000
(c)	in consideration of a fine or premium and reserving a rent or other considerations	The same duty as in subitem (a) in respect of the lease for the rent or other considerations, and the same duty as in subitem (b) in respect of the fine or premium	
(d)	where a percentage or proportion, or the value of a percentage or proportion, of the produce of the land is reserved or payable to the lessor	RM10	

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>
	(This duty is in addition to any duty which may be chargeable under (a), (b) or (c) above on account of any specified rent, fine or premium)	
(e)	in pursuance of a duly stamped agreement for the same on production of such agreement to the Collector	RM10
(f)	in any other case	RM10

Exemption to Item 2

Agricultural Lease or Agreement for Agricultural Lease for any definite term not exceeding three years when the rent reserved does not exceed two hundred ringgit a year

3.	Surrender of Lease	RM10
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PART 5

MISCELLANEOUS

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>
1.	Agreement or Memorandum of Agreement or Contract made under hand only, and not otherwise specially charged with any duty—	

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>
(a)	for the supply of goods, wares or merchandise whereby the goods in consideration of periodical payments may become the property of the person to whom they are supplied; or	RM10
(b)	whether the same is only evidence of a contract or obligatory on the parties from it being a written instrument	RM10

Exemptions to Item 1

Agreement or Memorandum—

- (a) for or relating to the sale of any goods, wares or merchandise other than a hire-purchase agreement;
 - (b) the matter whereof is of a value of less than RM300;
 - (c) for the reference of any matter to arbitration;
 - (d) for the payment of interest on money deposited in any bank or with any banker;
 - (e) for the repurchase of negotiable certificate of deposit whose issue has been authorized by Bank Negara Malaysia.
2. Appointment of a receiver under a mortgage RM10
 3. Appointment of a new trustee, and appointment in execution of a power, of any property, or of any share or interest in any property, by any instrument not being a will RM10

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>
4.	Articles of Association or Constitution of a company	RM100
5.	Assurance or insurance including policy of insurance:	
	(a) policy of sea insurance	RM10
	(i) policy of sea insurance including time policies or policies for covering a vessel or her machinery or fittings whilst under construction or repair or on trial, whether the period exceeds twelve months or not	
	(ii) for policies containing a continuation clause, additional duty	

Note: When a policy of sea insurance is drawn in a set according to the custom of marine insurers and one of the set is duly stamped, the other or others of the set shall, unless issued or in some manner negotiated apart from such duly stamped policy, be exempt from duty; and, upon proof of the loss or destruction of a duly stamped policy forming one of a set, any other policy of the set which has not been issued or in any manner negotiated apart from such lost or destroyed policy may although unstamped, be admitted in evidence to prove the contents of such lost or destroyed policy

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>
(b)	fire policy	RM10
	For all policies and renewals irrespective of the sum insured or the term	
(c)	accident policy and policy of insurance for any payment agreed to be made during the sickness of the insured person, or his incapacity from personal injury, or by way of indemnity against loss or damage of or to any property of the insured person	RM10
(d)	life policy	RM10
	<i>Exemption</i>	
	Where the sum insured does not exceed RM10,000	
(e)	re-insurance by an insurance company which has granted a Policy of Sea Insurance or a Policy of Fire Insurance with another Company by way of indemnity or guarantee, against the payment on the original insurance of a certain part of the sum insured thereby irrespective of the sum insured or the term	RM10

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>
(f)	third party policy: (i) covering liability of the insured towards others (ii) workmen's compensation (Employer's liability): policy covering the liability of the insured to pay compensation to a workman or employee in regard to sickness or personal injury	RM10
(g)	comprehensive policy Combining any two or more of the following risks: fire, personal injury, or sickness of the insured, damage, loss, theft and third party claims	RM10
(h)	any other insurance policy not specifically provided for	RM10

General Exemption

Letter of cover or engagement to issue a policy of insurance:

Provided that unless such letter or engagement bears the stamp prescribed by this Act for such policy nothing shall be claimable under it, nor shall it be available for any purpose except to compel the delivery of the policy mentioned in it

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>
6.	Cheque	15 sen for each cheque
7.	Counterpart or duplicate of any instrument chargeable with duty, and in respect of which the proper duty has been paid	RM10
8.	Covenant: Any separate instrument or deed of covenant (not being an instrument or deed chargeable with <i>ad valorem</i> duty as a conveyance or charge or mortgage) made on the sale, charge or mortgage of any property, or of any right or interest in it, and relating solely to the conveyance or enjoyment of or the title to the property sold, charged or mortgaged, or to the production of the documents of title relating to it, or to all or any of the said matters	RM10
9.	Declaration of any use or trust of or concerning any property by any writing, not being a will, or an instrument chargeable with duty as a settlement	RM10
10.	Letter of allotment and letter of renunciation or any document having the effect of a letter of allotment of shares in any company or proposed company or in respect of any loan raised or proposed to be raised by any company or proposed company	RM10

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>
11.	Letter of guarantee	RM10
12.	Memorandum of Association or Constitution of a company	RM100
13.	Partnership:	RM10
	(a) instrument of	
	(b) dissolution of	
14.	Power or letter of attorney:	RM10
	(a) instrument of	
	<i>Exemption</i>	
	For the sole purpose of appointment or authorizing any person to vote as proxy at a meeting of a Company or Association	
	(b) revocation of	
	(c) substitution under or by virtue of a power of attorney and any such instrument cancelling or varying any such substitution	
15.	Promissory Note:	RM10
	(a) instrument of	
	(b) protest of note (any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonor of a promissory note)	

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>
<i>Item</i>	<i>Description of Instrument</i>	<i>Proper Stamp Duty</i>
16.	Revocation of any use or trust of any property by any writing not being a will	RM10
17.	Share Warrant or Stock Certificate to bearer	1% of the nominal value of the shares or stock specified in the warrant
18.	Of any kind not otherwise specially charged with duty	RM10”.

Substitution of Second Schedule

75. The principal Act is amended by substituting for the Second Schedule the following Schedule:

“SECOND SCHEDULE

[Subsections 7(3), (4) and (7), subsection 35A(2) and paragraph 36(1)(c)]

PERSONS REQUIRED TO CANCEL ADHESIVE STAMPS

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>	<i>Fourth Column</i>
<i>Item</i>	<i>Nature of instrument</i>	<i>In the First Schedule</i>	<i>Person required to cancel the adhesive stamp</i>
		<i>Item - Part</i>	
1.	Agreement	1 Part 5	The person by whom the instrument is first executed
2.	Any Bond furnished to the Director General of Immigration in connection with the grant of any pass or permit issued under the Immigration Act 1959/63	7 Part 3	An Immigration officer

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>	<i>Fourth Column</i>
<i>Item</i>	<i>Nature of instrument</i>	<i>In the First Schedule</i>	<i>Person required to cancel the adhesive stamp</i>
		<i>Item - Part</i>	
3.	Articles of Association or Constitution of a company (unless compounded for)	4 Part 5	The Registrar of Companies
4.	Cheque (unless compounded for):		
	(a) when drawn or made out of Malaysia	6 Part 5	The first holder in Malaysia
	(b) when drawn or made in Malaysia		The drawer
5.	Contract Note (unless compounded for)	3 Part 1	The person by whom the note is executed
6.	Declaration of any use or trust of or concerning any property by any writing, not being a will, or an instrument chargeable with duty as a settlement executed with Amanah Raya Berhad	9 Part 5	Manager or Trust Executive of Amanah Raya Berhad
7.	Employment Contract issued to the Immigration Department for the purpose of securing a pass	1 Part 5	An Immigration officer
8.	Letter of allotment	10 Part 5	The person by whom the letter is signed
9.	Letter of renunciation	10 Part 5	The person in whose favour the letter is executed
10.	Memorandum of Association or Constitution of a company (unless compounded for)	12 Part 5	The Registrar of Companies
11.	Memorandum of Sale	1 Part 5	Registrar of High Court

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>	<i>Fourth Column</i>
<i>Item</i>	<i>Nature of instrument</i>	<i>In the First Schedule</i>	<i>Person required to cancel the adhesive stamp</i>
		<i>Item - Part</i>	
12.	Policy of Insurance when issued out of Malaysia	5 Part 5	The first holder in Malaysia
13.	Protest of Note	15(a) Part 5	The Notary
14.	Revocation of Power of Attorney	14(b) Part 5	The person by whom the instrument is executed
15.	Student Loan Agreement for the purpose of pursuing higher education in a college or university	4 Part 3	The lender”.

Substitution of Third Schedule

76. The principal Act is amended by substituting for the Third Schedule the following Schedule:

“THIRD SCHEDULE

[Paragraph 33(a)]

DUTY BY WHOM PAYABLE

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>	<i>Fourth Column</i>
<i>Item</i>	<i>Nature of instrument</i>	<i>In the First Schedule</i>	<i>Person liable to pay duty</i>
		<i>Item - Part</i>	
1.	Agreement or Memorandum of Agreement or Contract	1 Part 5	The person by whom the instrument is first executed
2.	Bond	1 or 3 Part 2; 1 or 7 Part 3	The obligor or other person giving the security
3.	Charge or mortgage	1 Part 2	The charger, mortgagor or obligor

<i>First Column</i>	<i>Second Column</i>	<i>Third Column</i>	<i>Fourth Column</i>
<i>Item</i>	<i>Nature of instrument</i>	<i>In the First Schedule</i>	<i>Person liable to pay duty</i>
		<i>Item - Part</i>	
4.	Contract	1 Part 5	The person by whom the instrument is first executed
5.	Contract Note	3 Part 1	The person on whose account the purchaser or sale is made
6.	Conveyance	1 Part 1	The grantee or transferee
7.	Exchange of real property	1(e) Part 1	The transferee
8.	Lease or Agreement for lease:	2 Part 4	
	(a) lease or agreement		The lessee
	(b) counterpart		The lessor
9.	Re-conveyance	2 Part 2	The transferee or assignee or the person redeeming the security".

Substitution of Fifth Schedule

77. The principal Act is amended by substituting for the Fifth Schedule the following Schedule:

“FIFTH SCHEDULE

[Subsection 8(1)]

LIST OF INSTRUMENTS ON WHICH DUTY IS PAYABLE BY MEANS OF
POSTAL FRANKING MACHINE OR DIGITAL FRANKING MACHINE

1. Transfer of shares in public companies listed on Bursa Malaysia
2. Hire-Purchase Agreement and guarantee relating to it
3. Letter of indemnity
4. Letter of guarantee
5. Letter of allotment
6. Student loan agreement
7. Articles of Association or Constitution of a company
8. Memorandum of Association or Constitution of a company”.

Savings and transitional

78. This Act shall not affect—

- (a) any instrument executed before the coming into operation of this Act;
- (b) any instrument executed after the date of coming into operation of this Act implementing a sale under a duly stamped agreement for sale and purchase executed before the date of coming into operation of this Act;
- (c) any liability on the payment of stamp duties provided under any provision in any written law until such provision is repealed;
- (d) any exemption from payment of stamp duties provided under any provision in any written law until such provision is repealed under the Revocation of Exemption From Payment of Stamp Duties Act 1992 [Act 478];
- (e) any liability incurred, duty, penalty or other sum required to be paid before the coming into operation of this Act; and
- (f) any objection or appeal made by any person on assessment raised before the coming into operation of this Act, and the objection and appeal shall be dealt with under the principal Act as if the principal Act had not been amended.

EXPLANATORY STATEMENT

This Bill seeks to amend the Stamp Act 1949 (“Act 378”).

- 2. *Clause 1* contains the short title and the provision on the commencement of the proposed Act.
- 3. *Clause 2* seeks to amend section 2 of Act 378 to amend certain existing definitions and introduce new definitions.
- 4. *Clause 3* seeks to amend section 3A of Act 378. With the introduction of self-assessment, the power of the Collector is expanded for the purpose of conducting audit. The Collector may require a person to attend personally

before him and search such lands, buildings and places to which the Collector has access. Obstruction or refusal to permit entry, refusal to produce instrument, book, account, record or other document and failure to provide reasonable facilities and assistance for purposes of audit shall be an offence. The proposed amendment also seeks to increase the maximum fine from two hundred and fifty ringgit to ten thousand ringgit to reflect the severity of any non-compliance.

5. *Clause 4* seeks to amend section 4 of Act 378 to provide that the chargeability to and exemption from stamp duty on instruments is subject to this Act only. This section also provides that all instruments chargeable with duty shall be duly stamped.

6. *Clause 5* seeks to amend subsection 4A(3) of Act 378 to increase the penalty for the offence of registering any instrument of transfer which is not duly stamped in accordance with subsection 4A(2) of Act 378.

7. *Clause 6* seeks to amend section 6 of Act 378 to provide that the application of section 6 is subject to Act 378 only.

8. *Clause 7* seeks to amend section 7 of Act 378 to include mode of paying and denoting duty by means of impressed stamp.

9. *Clause 8* seeks to amend section 8 of Act 378 to provide for the impression indicating payment of duty made by a digital franking machine shall contain the true date of the making of such impression. The proposed amendment also seeks to provide for the time for franking of instruments and to increase the penalty for the offence under this section.

10. *Clause 9* seeks to amend section 9 of Act 378 to empower the Collector to authorize any person, by notification in the *Gazette*, to compound for the payment of duty on specified instruments in accordance with the conditions laid down under this section. The proposed amendment also seeks to increase the further payment under subsection (3) from two hundred ringgit or ten per centum of the amount due to five hundred ringgit or twenty per centum of the amount due.

11. *Clause 10* seeks to amend section 10 of Act 378 to reflect the current stamping practice which no longer uses stamped paper.

12. *Clause 11* seeks to amend section 11 of Act 378 to provide that the chargeability of duty on instruments which depends on duty paid on another instrument shall be applicable to instruments which are assessed or deemed to be assessed under paragraph 36(1)(a) or (b) of Act 378.

13. *Clause 12* seeks to amend section 11A of Act 378 to provide that the replicate of an instrument shall not be deemed to be duly stamped unless it can be shown to the satisfaction of the Collector that all facts and circumstances affecting the liability of the original instrument to duty has been fully and truly set forth. The proposed amendment also seeks to provide that the presentation of the replicate of the instrument shall be made within six years from the date of execution of such instrument.

14. *Clause 13* seeks to introduce new section 11B into Act 378 to deal with the loss of stamp certificate where, upon application made to the Collector, the Collector may issue a substituted stamp certificate when it is shown to his satisfaction that all facts and circumstances affecting the liability of the original instrument to duty has been fully and truly set forth and the amount of duty chargeable has been paid.

15. *Clause 14* seeks to amend section 12 of Act 378 to introduce the new stamping practise whereby duplicates and counterparts of an instrument shall not be deemed to be duly stamped unless it is shown to the Collector that the original instrument has been stamped.

16. *Clauses 15, 19, 20* and *26* seek to amend sections 12A, 17, 20 and 29A of Act 378 respectively as a consequence of the amendment to the First Schedule.

17. *Clause 16* seeks to amend section 15 of Act 378 by extending the period in which the companies have to remain as the beneficial owner of the shares from two years to three years in order to obtain exemption under this section. Each company which was a party to the instrument is also required to inform the Collector of any change in the circumstances within thirty days of its occurrence.

18. *Clause 17* seeks to amend section 15A of Act 378 to provide that a company cannot dispose of the asset that it has acquired within three years of the date of conveyance or transfer and shall remain associated for a period of three years. The proposed amendment also stipulates that stamp duty and interest will be charged if it is found that the declaration or evidence furnished in support of the claim for exemption under this section is not true.

19. *Clause 18* seeks to amend section 16 of Act 378 by deleting subsection (2) to reflect the current stamping practise where the opinion by the Collector is no longer required.

20. *Clause 21* seeks to amend section 20A of Act 378 to impose *ad valorem* duty on the exchange of real property as a conveyance on sale irrespective whether the exchange involves a consideration. The proposed amendment also provides that the exchange of real property between certain parties will not be subject to *ad valorem* duty.

21. *Clause 22* seeks to amend section 20B of Act 378 to introduce the new stamping practise where the requirement for an affidavit by the transferee is replaced with a declaration by the transferee in the return.

22. *Clause 23* seeks to substitute section 21 of Act 378 to introduce the charging of *ad valorem* duty on any contract or agreement for the sale of any property including stock or marketable securities of any estate, equitable estate or interest and matters incidental to it.

23. *Clause 24* seeks to amend section 22 of Act 378 to exclude a warrant of attorney as an instrument to secure annuity or any other right as the instrument is no longer in use.

24. *Clause 25* seeks to amend section 26 of Act 378 to exclude security for the payment of rentcharge from duty as the instrument is no longer in use.

25. *Clause 27* seeks to amend section 32 of Act 378 to provide that the imposition of the minimum duty of ten ringgit does not apply to a contract note.

26. *Clause 28* seeks to amend section 33 of Act 378 as a consequence of the amendment to the Third Schedule.

27. *Clause 29* seeks to introduce new section 33A into Act 378 to empower the Collector to appoint any person to be the agent of the duty payer and that person shall be required to pay any duty or penalty due under the this Act on behalf of the duty payer from any moneys including sale proceeds or rents. Failure of the agent to pay such duty or penalty renders it a debt due to the Government. The new section 33A further provides that the Collector may require any person to give him information as to any moneys, funds or other assets which may be held by him for, or of any moneys due by him to, the duty payer. If the agent is aggrieved by the appointment, he may object to the appointment by notice in writing to the Collector within fourteen days from the date of appointment.

28. *Clause 30* seeks to substitute section 35 of Act 378 to provide for the instruments which are exempted from duty. Before the amendment, the exemptions were provided for in the First Schedule.

29. *Clause 31* seeks to introduce new sections 35A and 35B into Act 378. The new section 35A requires every person to furnish a return in respect of an instrument executed and chargeable with duty. The new section 35B seeks to require every person to keep for a period of seven years the instrument and relevant documents in relation to the instrument which has been stamped or ought to be stamped in accordance with Act 378.

30. *Clause 32* seeks to substitute section 36 of Act 378 to provide that in the case where a duty payer has furnished a return under paragraph 36(1)(a) or (b), the Collector shall assess the duty and the duty shall be due and payable within fourteen days from the date of assessment. In the case of a return in which the duty payer opts to assess the duty for himself, the return is deemed to be an assessment made by the Collector and the deemed assessment shall be due and payable within fourteen days from the date the return is furnished. The proposed amendment also allows the Collector to make an assessment where an instrument chargeable with duty is not duly stamped. This section also provides that the deemed assessment is also subject to section 50A of Act 378.

31. *Clause 33* seeks to delete sections 36A, 36AA, 36B and 36C of Act 378 which become irrelevant after the introduction of self-assessment.

32. *Clause 34* seeks to amend section 37 of Act 378 as a consequence of the deletion of sections 36A, 36AA, 36B and 36C.

33. *Clause 35* seeks to delete section 38 of Act 378 to reflect the current stamping practice where all instruments chargeable with duty must be assessed.
34. *Clauses 36 and 37* seek to amend sections 38A and 39 of Act 378 respectively as a consequence of the deletion of sections 36A, 36AA, 36B and 36C.
35. *Clause 38* seeks to amend section 40 of Act 378 as a consequence of the amendment to section 36 which gives an option to the duty payer to not bring the instruments to the Collector for assessment.
36. *Clause 39* seeks to introduce new section 40A into Act 378 to provide for the calculation of the proper duty or penalty by rounding it to the nearest ringgit and the minimum duty to be imposed is ten ringgit.
37. *Clause 40* seeks to amend section 42 of Act 378 to exclude the application of this section to promissory note.
38. *Clause 41* seeks to amend section 43 of Act 378 to exclude the application of this section to promissory note executed outside Malaysia.
39. *Clauses 42 and 43* seek to amend sections 44 and 45 of Act 378 respectively as a consequence to the exclusion of bills of exchange to the application of these sections in the year of 1992.
40. *Clause 44* seeks to amend section 47 of Act 378 to allow a promissory note to be stamped after execution.
41. *Clause 45* seeks to amend section 47A of Act 378 to increase the penalty for late stamping.
42. *Clause 46* seeks to amend section 48 of Act 378 to provide that the Collector shall only indorse payment of penalty where the payment is denoted by means of an adhesive stamp.
43. *Clause 47* seeks to amend section 50 of Act 378 to enable the Government to recover all duties, penalties and other sums required to be paid under this Act by civil proceedings. This section further provides that in a suit under this Act, the production of a certificate signed by the Collector giving the name and address of the defendant and the amount of the duty or penalty due from him shall be sufficient authority for the court to give judgment for that amount.
44. *Clause 48* seeks to introduce new section 50B into Act 378 to allow a duty payer who has paid excessive stamp duty by reason of some error or mistake to apply for relief from the Collector within the time specified in that section.
45. *Clause 49* seeks to amend section 51 of Act 378 to allow an officer of a statutory body to impound an instrument which is not duly stamped.
46. *Clause 50* seeks to amend section 55 of Act 378 to reflect the current stamping practice which no longer imposes adjudication fees.

47. *Clause 51* seeks to amend section 56 of Act 378 to provide that the application of section 56 is subject to Act 378 only.

48. *Clause 52* seeks to introduce new section 56A into Act 378 to enable the Collector to recover any unpaid duty, penalty or sum due from a deceased under this Act from the executor of the estate of the deceased. The proposed section further provides that the amount of any duty, penalty or sum payable by the executor shall be a debt due from and payable out of the estate of that deceased. The section also stipulates that the executor shall not distribute any of the assets of the deceased unless the executor has made provision for the payment in full of any duty, penalty or sum which the executor knows or might reasonably expect to be payable by the executor under this section. If the executor fails to make such provision, he shall be jointly and severally liable with other executors to pay a penalty equal to the amount of the duty, penalty or sum payable.

49. *Clause 53* seeks to amend section 57 of Act 378 to clarify that “any person” mentioned in subparagraph 57(f)(iv) does not include the duty payer. The proposed amendment also seeks to clarify subparagraph 57(f)(vi) that the allowance can be claimed when the non-performance of the agreement is by a party other than the purchaser.

50. *Clause 54* seeks to amend section 59 of Act 378 to exclude allowance for unused stamp.

51. *Clause 55* seeks to amend section 60 of Act 378 to increase the maximum fine for the failure to cancel adhesive stamp from five hundred ringgit to six thousand ringgit.

52. *Clause 56* seeks to amend section 61 of Act 378 to increase the maximum fine for the failure to set forth all the facts and circumstances as required under section 5 of Act 378 from two thousand five hundred ringgit to ten thousand ringgit.

53. *Clause 57* seeks to amend section 63 of Act 378 to increase the maximum fine for the offences under this section from one thousand five hundred ringgit to six thousand ringgit.

54. *Clause 58* seeks to amend section 64 of Act 378 to increase the maximum fine for the failure to execute and transmit a contract note from one thousand five hundred ringgit to six thousand ringgit.

55. *Clause 59* seeks to amend section 65 of Act 378 to increase the maximum fine for the offences relating to post-dating promissory note from two thousand five hundred ringgit to ten thousand ringgit.

56. *Clause 60* seeks to amend section 67 of Act 378 to increase the maximum fine for the offences under this section from one thousand ringgit to four thousand ringgit.

57. *Clause 61* seeks to amend section 68 of Act 378 to increase the maximum fine for the offences under this section from one thousand ringgit to four thousand ringgit.

58. *Clause 62* seeks to amend section 69 of Act 378 to increase the maximum fine for offences of issuing a share warrant or stock certificate not duly stamped from one thousand five hundred ringgit to six thousand ringgit.

59. *Clause 63* seeks to amend section 71 of Act 378 to increase the maximum fine for unauthorized dealing in stamps from one thousand ringgit to ten thousand ringgit.

60. *Clause 64* seeks to amend section 72 of Act 378 to increase the maximum fine for hawking stamps from one thousand ringgit to ten thousand ringgit.

61. *Clause 65* seeks to amend section 72A of Act 378 to increase the maximum fine for the offences relating to stamp certificates from five thousand ringgit to ten thousand ringgit.

62. *Clause 66* seeks to introduce new sections 72B and 72C into Act 378. The new section 72B provides for the offence and penalty for failure to keep record in accordance with subsection 9(7) and section 35B, for the failure to give notice required under subsection 15(6A) or 15A(6) and failure to furnish return in accordance with section 35A. The new section 72C empowers the court to make further order if a person is convicted for any offence under Act 378.

63. *Clause 67* seeks to amend section 74 of Act 378 to increase the maximum fine for offences relating to fraudulent act, contrivance or device in relation to duty from five thousand ringgit to ten thousand ringgit.

64. *Clause 69* seeks to introduce new section 75A into Act 378 that requires the Collector to obtain written consent of the Public Prosecutor before an offence can be compounded. The new section 75A also empowers the Minister to make regulations to prescribe compoundable offences.

65. *Clause 70* seeks to introduce new section 76A into Act 378 to provide that any person exercising the right of access or the right to take possession under section 3A Act 378 shall carry a warrant in a prescribed form issued by the Collector.

66. *Clause 71* seeks to amend section 77A of Act 378 to allow a person to pay stamp duty by way of electronic medium. That person must first register with the Collector in order to enable him to use electronic medium. He may pay by electronic fund transfer in which a stamp certificate is issued and that certificate must be attached to the instrument. In addition to that, the stamp certificate may also be obtained if the person pays the duty assessed at the stamp office.

67. *Clause 72* seeks to introduce new section 77C into Act 378 to provide for an application to be a registered person to use electronic medium. This *clause* also seeks to introduce new section 77D into Act 378 to empower the Collector to determine forms required for the purposes of this Act.

68. *Clause 73* seeks to amend section 78 of Act 378 to empower the Minister to give directions of a general character to the Collector as to the exercise of the Collector's function under this Act.

69. *Clauses 74, 75, 76 and 77* seek to substitute the First, Second, Third and Fifth Schedule of Act 378 respectively.

70. *Clause 78* seeks to deal with the savings and transitional provisions.

71. Other amendments not specifically dealt with in this Statement are minor or consequential in nature.

FINANCIAL IMPLICATION

This Bill will involve the Government in extra financial expenditure the amount of which at present cannot be ascertained.

[PN(U2)2984]