



**ST HELENA**

**REVISED EDITION OF THE LAWS, 2017**

**PUBLIC FINANCE & REVENUE**

**STAMP DUTIES ORDINANCE, 1987<sup>1</sup>**

*Ordinance 18 of 1987*

*In force 10 April 1987*

*Amended by Ordinances 4 of 2005, 7 of 2011, 14 of 2017*

*and by L.N. 21/2005, L.N. 13/2009, L.N. 13/2012, L.N. 5/2013, L.N. 5/2019*

*Subsidiary legislation:*

**STAMP DUTIES RULES, 1987**

*Legal Notice 19 of 1987*

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**STAMP DUTIES ORDINANCE, 1987**

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<sup>1</sup> Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 1 April 2019.

AN ORDINANCE to consolidate and amend the law relating to stamp duties.

## **PART I PRELIMINARY**

### **Short title**

1. This Ordinance may be cited as the Stamp Duties Ordinance, 1987.

### **Interpretation**

2. In this Ordinance, except where the context otherwise requires—  
“**Controller**” means the Controller of Stamps appointed under section 5;  
“**die**” includes any plate, type, tool or implement whatever used under this Ordinance for expressing or denoting any duty, or the fact that any duty or penalty has been paid, or that an instrument is duly stamped, or is not chargeable with any duty, or for denoting any fee, and also any part of any such plate, type, tool or implement;  
“**duty**” means any stamp duty for the time being chargeable by law;  
“**executed**”, with reference to an instrument not under seal, means signed;  
“**instrument**” means and includes every written document;  
“**money**” includes all sums expressed in British, St Helena or any other currency;  
“**stamp**” means an adhesive stamp or a stamp impressed by means of a die;  
“**stamped**” with reference to instruments and material, applies to instruments and material impressed with stamps by means of a die or to instruments and material having adhesive stamps affixed to them.

## **PART II DUTIES; PAYMENTS AND COLLECTION**

### **Stamp duty**

3. (1) There is to be paid, upon every instrument of a type appearing in the first column of the Schedule, the duties respectively specified in respect thereof in the second column of the Schedule.

- (2) The duties payable under subsection (1) are to be known as Stamp Duties.

- (3) The Governor in Council may, by order published in the *Gazette*, amend the Schedule or repeal it and substitute a new one.

### **Evidence of payment**

4. The fact that duty has been paid upon any instrument must be denoted by means of a stamp or stamps of a type prescribed by rules made under this Ordinance.

### **Controller of Stamps**

**5. (1)** The Governor must appoint some fit and proper person to be the Controller of Stamps, and the Controller must make such arrangements as appear to him or her to be necessary or convenient, subject to this Ordinance and any rules made under it, for the collection of the duties imposed by this Ordinance.

**(2)** Without limiting subsection (1), the Controller must secure the provisions of any stamps, dies or other implements that are necessary for carrying into effect the provisions of this Ordinance.

#### **Duties may be made up by several stamps**

**6.** The duties imposed by this Ordinance may be made up by several stamps; and stamps of greater value than is required may be used upon any instrument.

#### **Instruments relating to Crown property**

**7.** All instruments relating to property belonging to the Crown are, unless exempted, charged with the same duty as an instrument of the same kind relating to property belonging to a subject of the Crown.

#### **Application of duties**

**8.** Every person who, pursuant to arrangements made by the Controller, receives any duties under this Ordinance must cause all sums so received to be remitted to the Controller, and the Controller must ensure that all duties received by the Controller under this Ordinance are paid into and form part of the Consolidated Fund.

#### **Public Officer not to register unstamped instruments**

**9.** A public officer must not register, file, or issue any instrument which is required to be stamped, until it has been duly stamped in the manner provided in this Ordinance.

#### **Unstamped instruments**

**10. (1)** No instrument made liable by any Ordinance to any duty may be pleaded or given in evidence in any court unless it is duly stamped.

**(2)** Notwithstanding subsection (1), a court may, if it thinks fit, allow an adjournment of any proceedings to enable a person producing an unstamped instrument to have it duly stamped.

**(3)** No instrument shall in any criminal proceedings be inadmissible in evidence for want of a stamp.

#### **By whom duty payable**

**11.** The duty upon any instrument of a type specified in the First Column of the Schedule is payable by the person or persons mentioned in respect of such instrument in the Third Column of the Schedule, and if 2 or more persons are so liable they are liable jointly and severally.

### **Time for stamping**

**12.** Every instrument liable to be stamped under this Ordinance must be so stamped within 28 days after it has been executed.

### **Penalty for late stamping**

**13. (1)** If any instrument is stamped more than 28 days after it has been executed, there is payable an additional amount of duty (hereinafter called a “**penalty**”) equal to one half of the duty otherwise payable, for each 3 months (or part thereof) elapsed since the date by which the instrument should have been stamped.

**(2)** The Controller may remit any penalty (either in whole or in part) if satisfied that the failure to stamp the instrument in due time was not due to the fault of the person or persons liable for such stamping.

### **Offences**

**14. (1)** It is an offence for a person—

- (a)* being a person liable to pay duty upon any instrument, or to affix or cancel any stamp, wilfully to neglect or to refuse to do so;
- (b)* wilfully to make or alter any instrument, or to make any false statement or declaration, with a view to avoiding the payment (by that person or another) of any duty otherwise lawfully payable; or
- (c)* being a person responsible for the custody of any stamp or die, knowingly to permit the same to be used or applied so as to indicate that duty has been paid which has not in fact been paid.

Penalty: Imprisonment for 3 years or a fine of £1,000, or both.

**(2)** Any duty lawfully payable under this Ordinance remains so payable notwithstanding any criminal proceedings under this section.

### **Rules**

**15.** The Governor-in-Council may make rules generally for giving effect to this Ordinance; and may, in particular by such rules, provide—

- (a)* for the type or types of stamps to be used, under section 4, to denote the payment of duty;
  - (b)* for the manner in which such stamps are to be applied or affixed, including provisions as to the cancellation of any such stamps;
  - (c)* that instruments of any of the types liable to be stamped under this Ordinance must be in prescribed forms, or must include prescribed particulars or declarations.
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**SCHEDULE<sup>2</sup>**  
(Sections 3(1) and 11)

COLUMN 1 Type of Instrument	COLUMN 2 Duty Payable	COLUMN 3 Duty Payable by
A. Lease of Land.	<p>(1) If a premium is paid, the same duty as if the instrument was a transfer of land at a consideration equal to the premium.</p> <p>(2) Whether or not duty (1) is payable, a sum based on the total rent reserved by the lease (the periodic rent multiplied by the duration of the demise), namely:</p> <p>(a) if the total rent does not exceed £5,000, £20;</p> <p>(b) if the total rent exceeds £5,000 but does not exceed £20,000, £75;</p> <p>(c) if the total rent exceeds £20,000, £250; and, for the purposes of calculating the total rent reserved, the periodic rent must be treated as whichever is the higher of:</p> <p style="padding-left: 2em;">(i) the periodic rent applicable at the commencement of the demise; and</p> <p style="padding-left: 2em;">(ii) any periodic rent fixed by the lease to be substituted at any time during the term for the rent mentioned in (i).</p>	The lessee(s) or tenant(s)
B. Mortgage or charge upon land, or upon any ship or other sea-going vessel.	£25.00	The mortgagee(s)
C. Partnership deed or agreement	For each party thereto, £6.00	The partners
D. Transfer of land, or of any interest in land; other than:  (i) a transfer by a personal representative to the person(s) entitled to the property under the deceased's will or under the law relating to intestate succession; or  (ii) a transfer made	Duty calculated <i>ad valorem</i> on whichever is the higher of the consideration for the transfer or the value of the land (including the value of any buildings or other structures erected at the time of purchase), at the following rates:  (a) For land (excluding the amount of the consideration or value to which paragraph (c) applies):  (i) On so much of the consideration or value not exceeding £10,000 ..... 0%	The transferee(s)

<sup>2</sup> Schedule amended by L.N. 5 of 2019

<p>within 3 months after the incorporation of a company under the Companies Ordinance 2004, whereby land or an interest in land is transferred to that company by a person who was an incorporator (as defined in the Companies Ordinance 2004) of that company</p>	<p>(ii) On so much of the consideration or value as exceeds £10,000 but not £150,000 .....2.5%</p> <p>(iii) On so much of the consideration or value as exceeds £150,000 but not £500,000 ..... 3%</p> <p>(iv) On the consideration or value exceeding £500,000 ..... 5%</p>
<p>(iii) a transfer made to any of the following entities:</p> <p>St Helena Government</p> <p>Enterprise St Helena</p> <p>Bank of St Helena</p> <p>St Helena Fisheries Corporation</p> <p>Connect Saint Helena Ltd</p> <p>St Helena Airport Limited</p> <p>St Helena Hotel Development Limited</p>	<p>(b) Residential property transferred to a person who at the time of transfer owns or jointly owns any other residential property on St Helena .....2.5% on the full consideration or value (which is payable in addition to the duty under paragraph (a))</p> <p>(c) Residential property transferred to a person who has not previously owned any property, whether on St Helena or elsewhere, and who is acquiring that property as his or her primary residence, provided that person has been resident on St Helena or Ascension for a period exceeding 300 days out of the 365 days immediately preceding that transfer</p> <p>On so much of the consideration or value as does not exceed £100,000 .....0%</p>

(1) In applying item D of this Schedule—

- (a) a person is regarded as owning or having previously owned property, whether in St Helena or elsewhere, if the title of such property is or was registered in the name of that person;
- (b) **“residential property”** means any property which at the relevant time falls within Class C3 of the Use Classes in Schedule 1 to the Land Planning and Development Control General Regulations, 2013.

(2) The additional duty paid in respect of any property under paragraph (b) of Item D must be refunded where the only other residential property owned by that person was his or her primary residence which is sold and transferred to the new owner within 6 months from the date of transfer of the new property in respect of which the additional duty was paid.

(3) Where the consideration or value of the property referred to in paragraph (c) of Item D exceeds £100,000, the rates in paragraph (a)(ii), (iii) and (iv) of Item D apply to the amount exceeding £100,000.

**STAMP DUTIES ORDINANCE, 1987**

**STAMP DUTIES RULES, 1987**

(Section 15)

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**Citation**

1. These rules may be cited as the Stamp Duties Rules, 1987.

**Denoting payment of duty**

2. The payment of duty upon any instrument may be denoted by either—
  - (a) affixing to the instrument a postage stamp or postage stamps of value or total value not less than the duty payable upon the instrument; or
  - (b) an embossed seal in a form that the Controller of Stamps from time to time approves.

**Further provisions as to stamps**

3. (a) If the payment of duty is denoted in the manner authorised by rule 2(a), the person affixing the stamp or stamps must cancel it or them by writing or stamping across the face of the stamp or stamps the date on which it was or they were affixed.

(b) If the payment of duty is denoted in the manner authorised by rule 2(b), the seal must be affixed by the Registrar of Lands, or a member of his or her staff, upon payment to the Registrar of Lands of the duty due on the instrument.

**Certificate of value**

4. Every instrument effecting the creation or disposal of any land (or any interest in land) must contain a certificate (in the form set out in the Schedule to these Rules) as to the value of the land or interest created or transferred; and every person executing such an instrument is deemed to confirm the contents of such certificate.

**SCHEDULE**

(Rules 4)

The parties to this instrument hereby certify that the value of the land or interest created or transferred by it is £..... (or the amount of the consideration ~~above~~ mentioned in the instrument).

Signed .....  
and .....

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