

ACTS SUPPLEMENT

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Act 21

Stamp Duty (Amendment) Act

2023

THE STAMP DUTY (AMENDMENT) ACT, 2023

ARRANGEMENT OF SECTIONS

Section

1. Amendment of Stamp Duty Act, 2014
2. Amendment of section 8 of principal Act
3. Insertion of section 63A in principal Act
4. Amendment of Schedule 2 to principal Act

THE STAMP DUTY (AMENDMENT) ACT, 2023

An Act to amend the Stamp Duty Act, 2014 to provide for equivalent stamp duty treatment of instruments under Islamic financial business to conventional instruments under financial services.

DATE OF ASSENT: 17th August, 2023

Date of Commencement: 25th August, 2023

BE IT ENACTED by Parliament as follows:

1. Amendment of Stamp Duty Act, 2014

The Stamp Duty Act, 2014, in this Act referred to as the principal Act, is amended in section 2—

- (a) by inserting immediately after the definition of “instrument of partition”, the following—

““Islamic financial business” means financial business undertaken by a person that conforms to Shari’ah principles and includes—

- (a) the business of receiving property into profit sharing investment accounts or of managing such accounts;
- (b) any other business of a person which involves or is intended to involve the entry into one or more contracts under Shari’ah or otherwise carried out or purported to be carried out in accordance with Shari’ah principles including—
 - (i) equity or partnership financing;
 - (ii) lease-based financing;
 - (iii) sale-based financing;
 - (iv) currency exchange contracts; or
 - (v) fee-based activity;
- (c) the purchase of bills of exchange, certificates of Islamic deposit or other negotiable instruments;
- (d) the acceptance or guarantee of any liability, obligation or duty of any person; and
- (e) the business of providing finance by all means including through the acquisition, disposal or

leasing of assets or through the provision of services which have similar economic effect and are economically equivalent to any other financial business;” and

- (b) by inserting immediately after the definition of “settlement”, the following—

““takaful” means insurance business conducted in accordance with Shari’ah principles;”.

2. Amendment of section 8 of principal Act

Section 8 of the principal Act is amended by inserting immediately after subsection (1), the following—

“(1a) Notwithstanding subsection (1), a manager of a takaful business shall file with the Commissioner, monthly returns of all sums received in respect of contributions and stamp duty paid on the policies of takaful on behalf of the participants in each group in the takaful business.”

3. Insertion of section 63A in principal Act

The principal Act is amended by inserting immediately after section 63, the following—

“63A. Re-characterisation of instruments under Islamic financial business

(1) For purposes of determining whether an instrument is chargeable with duty under this Act, the Commissioner may re-characterise an instrument under Islamic financial business not provided for under this Act to the equivalent instrument under conventional financial services for purposes of reflecting the equivalent economic substance, rather than the form.

(2) The Commissioner shall comply with Shari’ah principles in re-characterising an instrument under Islamic financial business that is not provided for under this Act.”

4. Amendment of Schedule 2 to principal Act

Schedule 2 to the principal Act is amended—

(a) by substituting for item 5, the following—

“5	AGREEMENT OR MEMORANDUM of an agreement except a sale-based financing agreement between the vendor or borrower and a person licensed to carry on Islamic financial business;	15,000/=”
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(b) by substituting for item 10, the following—

“10	ARTICLES OF ASSOCIATION OF A COMPANY except the articles of association of a special purpose vehicle incorporated for the purposes of issuing or purchasing an Islamic bond;	15,000/=”
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(c) in item 18, by inserting immediately after paragraph (c), the following—

“(d)	on nominal share capital or any increase of it of a special purpose vehicle incorporated for the purposes of issuing or purchasing an Islamic bond;	Nil”
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(d) by substituting for item 28, the following—

“28	DEED; except a deed for the establishment of a special purpose vehicle as a partnership or trust for the purposes of issuing or purchasing an Islamic bond;	15,000/=”
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(e) by substituting for item 41, the following—

“41	MEMORANDUM OF ASSOCIATION OF A COMPANY; except the memorandum of association of a special purpose vehicle incorporated for the purposes of issuing or purchasing an Islamic bond;	15,000/=”
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(f) by substituting for item 47, the following—

“47	(a) PARTNERSHIP; except a partnership of a special purpose vehicle incorporated for the purposes of issuing or purchasing an Islamic bond;	15,000/=
	(b) DISSOLUTION OF PARTNERSHIP; except a partnership of a special purpose vehicle incorporated for the purposes of issuing or purchasing an Islamic bond;	15,000/=”

(g) by substituting for item 48, the following—

“48	(a) POLICY OF INSURANCE, including a policy of takaful;	35,000/=
	(b) LIFE INSURANCE, including family takaful;	Nil”

(h) by substituting for item 57, the following—

“57	INSTRUMENT OF SETTLEMENT or an instrument revoking the settlement, including a deed of dower; except an instrument of settlement from a person licensed to carry on Islamic financial business to a customer under equity or partnership financing;	15,000/=”
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(i) in item 62, by inserting immediately after paragraph (c), the following—

	“(d) of an asset or land from the vendor to a person licensed to carry on Islamic financial business or to a borrower, in the case of sale-based financing, lease-based agreement or currency exchange contract for purposes of facilitating Islamic financial business;	Nil
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	(e) of an asset or land from a special purpose vehicle for the purposes of an Islamic bond to a beneficiary in the case of sale-based financing or lease-based agreement for purposes of facilitating Islamic financial business.	Nil”.
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