

**No. S. 422.**—The following bill, which it is proposed to introduce into the Legislative Council shortly, is published for general information. This bill is an amended draft of the bill which was published in the Gazette of the 7th July, 1924:—

C.S.O. 3181/14. Part II.

[No. 11:—1.12.24.—3.]

A BILL

INTITULED

An Ordinance to amend further the Stamp Ordinance, 1921.

BE it enacted by the Governor of Hongkong, with the advice and consent of the Legislative Council thereof, as follows:—

Short title.      1. This Ordinance may be cited as the Stamp Amendment Ordinance, 1925.

Amendment of Ordinance No. 8 of 1921, s. 34 para. (1).      2. Paragraph (1) of section 34 of the Stamp Ordinance, 1921, is repealed and the following paragraph is substituted therefor:—

(1) All instruments made or executed by or on behalf of His Majesty, or by or on behalf of any officer of His Majesty's service in his official capacity, or whereby any property or interest is transferred to or any contract of any kind whatsoever is made with His Majesty, or with any person for or on behalf of His Majesty, or with any such officer in his official capacity as aforesaid, shall be wholly exempt from duty: Provided that this exemption shall not extend to any document executed by any such officer as Official Administrator, or as Official Receiver, or as Official Receiver of Companies, or as a liquidator, or as Official Trustee, or in pursuance of any order or writ of any court.

Amendment of Ordinance No. 8 of 1921, s. 35.      3. Section 35 of the Stamp Ordinance, 1921, is amended as follows:—

- (a) the section is re-numbered as sub-section (1);
- (b) the words "or his assigns" are inserted between the word "mortgagor" and the word "as" in the third line thereof;
- (c) the word "immovable" is inserted between the word "any" and the word "property" in the third line thereof;
- (d) the following sub-section is added at the end thereof:—

Re-assignments and mortgages made for the sole purpose of surrender with a view to exchange.      (2) Whenever the Land Officer shall certify that a re-assignment has been made for the sole purpose of enabling the mortgagor or his assigns as the owner of any immovable property held from the Crown to surrender the said property to the Crown as consideration or part consideration for an exchange, and that a new mortgage of the property granted in exchange similar so far as possible to the previous mortgage was made immediately upon the granting of such property granted in exchange, then such re-assignment and new mortgage shall be exempt from stamp duty, and the Collector

shall, on production to him of such certificate and of such re-assignment and new mortgage, endorse thereon a certificate to the effect that the same are under this section exempt from stamp duty.

4. Nothing in paragraph (1) of section 34 of the Stamp Ordinance, 1921, shall have the effect of making inadmissible in evidence any instrument executed before the commencement of this Ordinance which would have been admissible if executed after the commencement of this Ordinance.

5.—(1) Heading No. 5 in the Schedule to the Stamp Ordinance, 1921, is amended by the addition at the end thereof of the words, “, if such transfer is made by the same instrument as the appointment of the new trustee”.

Amendment of Ordinance No. 8 of 1921, Sched., Heading No. 5.

(2) The following is inserted after heading No. 5 in the schedule to the Stamp Ordinance, 1921 :—

*See Conveyance and Mortgage.*

6.—(1) The following heading is inserted immediately after heading No. 15 in the Schedule to the Stamp Ordinance, 1921 :—

Insertion of new Heading in Ordinance No. 8 of 1921, Sched., and renumbering of Heading No. 15A.

15A	Conveyance made for the purpose of effectuating the appointment of a new trustee, if such conveyance is made by some instrument other than the instrument by which the new trustee is appointed.	\$5.	Over-embossed.	7 days after execution.	All persons executing.
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(2) Heading No. 15A in the Schedule to the Stamp Ordinance, 1921, is renumbered as Heading No. 15B.

7.—(1) Heading No. 29 in the Schedule to the Stamp Ordinance, 1921, is amended by the addition of the following sub-heading at the end thereof :—

Amendment of Ordinance No. 8 of 1921, Sched., Heading No. 29.

(10)	Transfer of a mortgage made for the purpose of effectuating the appointment of a new trustee, if such transfer is made by some instrument other than the instrument by which the new trustee is appointed.	\$5.	Over-embossed.	7 days after execution.	All persons executing.
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(2) The exemption clause at the end of heading No. 29 in the Schedule to the Stamp Ordinance, 1921, is repealed and the following clause is substituted therefor :—

Re-assignment and mortgage made for the sole purpose of obtaining a new Crown lease, or for the sole purpose of surrender to the Crown with a view to an exchange : *See* section 35.

*Objects and Reasons.*

1. Broadly speaking, the present law, enacted in 1921, is that instruments executed on behalf of the Government are exempt from stamp duty. The former law, which dates back to 1866, was that all instruments whereby any contract was made with the Government were exempt from stamp duty, whether the instrument was executed on behalf of the Government or not. Clause 2 of this bill proposes to go back to the old law on this subject. The chief reasons for this proposed change in the law are as follows:—

- (a) In some cases the intention of the transaction is to assist the other party on certain terms and not to make money, *e.g.*, a building loan.
- (b) In other cases the only object is to secure the performance of obligations already accepted.
- (c) In other cases the object is to secure Government servants, etc., and it is presumed that in such cases there is no desire to collect additional revenue by means of stamps.
- (d) Probably in every case the main object of the instrument is to secure the rights of the Government.

Clause 4 applies the new rule, *i.e.* the old value restored, to instruments executed before the commencement of the amending Ordinance.

2. Section 25 of the Stamp Ordinance, 1921, provides for exempting from stamp duty re-assignments and consequential new mortgages executed for the purpose of obtaining a Crown lease. It is now proposed to provide in the same way for exempting from stamp duty re-assignments and new mortgages executed for the purpose of effecting an exchange of land with the Crown. This is dealt with in clause 3 of the Bill, and clause 7 (2) contains a consequential amendment.

3. The stamp duty on the appointment of a new trustee is \$10, and this duty covers any transfer of property made for the purpose of effectuating the appointment, provided that such transfer is made in the instrument appointing the new trustee. It is often inconvenient and inadvisable to make such transfers in the instrument of appointment, but if such transfers are made by separate instruments the stamp duty at present is \$20 on each transfer. The stamp duty in England in such a case is 10 shillings, and it is now proposed to make the stamp duty in such a case \$5 here. The stamp duty in this case is being reduced because, unlike the usual cases in which substantial duty is charged, no consideration or beneficial interest passes. This point is dealt with in clauses 5, 6 and 7 (1) of the bill.

J. H. KEMP,  
*Attorney General.*

*1st December, 1924.*