

# **The Indian Stamp Act, 1899**

**(2 of 1899)**

*as amended by*

**The Warehousing (Development and  
Regulation) Act, 2007**

**(37 of 2007)**

*with*

*Short Comments*

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## THE INDIAN STAMP ACT, 1899

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# THE INDIAN STAMP ACT, 1899\*

(2 OF 1899)

[27th January, 1899]

*An Act to consolidate and amend the law relating to Stamps.*

WHEREAS it is expedient to consolidate and amend the law relating to Stamps; It is hereby enacted as follows:—

## COMMENTS

The Stamp Act being an Act to consolidate and amend is exhaustive and indicates that all the former Acts on the subject of stamps have been collected and the law embodied therein altered and for determining the nature of a document, the provisions of this Act alone will be taken into consideration: *Bannev Khan v. Chief Inspector* A.I.R. 1976 All. 475 (S.B.).

Court has to consider the provisions of the Stamp Act as a fiscal measure, the principal object of which is to secure revenue for the State but the object of the Stamp Act is not to enable parties to raise technical objections to meet the case of their opponent: *J.M.A. Raju v. K. Bhatt* A.I.R. 1976 Guj. 72 (F.B.).

The sole object of the Indian Stamp Act is to increase revenue and its provisions must be construed as having in view only the protection of revenue. Although the provisions contained in the Act impose pecuniary burdens and this Act is a fiscal enactment yet considering the implications involved therein, its provisions must be given a construction which prevents undue hardship to the subject: *Jagdish Narain v Chief Controlling Revenue Authority* A.I.R. 1994 All. 371.

## CHAPTER I PRELIMINARY

**1. Short title, extent and commencement.**—(1) This Act may be called THE INDIAN STAMP ACT, 1899.

<sup>1</sup>[(2) It extends to the whole of India except the State of Jammu and Kashmir:

Provided that it shall not apply to <sup>2</sup>[the territories which, immediately before the 1st November, 1956, were comprised in Part B States] (excluding the State of Jammu and Kashmir) except to the extent to which the provisions of this Act relate to rates of stamp-duty in respect of the documents specified in Entry 91 of List I in the Seventh Schedule to the Constitution.]

(3) It shall come into force on the first day of July, 1899.

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\*This Act has been declared to be in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation III of 1872 and in the Angul District by the Angul Laws Regulation V of 1936.

Under S. 3(a) of the Scheduled Districts Act XIV of 1874, the Act has been declared to be in force in the Scheduled Districts of Ganjam, Vizagapatam and East Godavary.

Under Ss. 5 and 5-A of the Scheduled Districts Act XIV of 1874, the Act has been extended, with certain modifications, to the districts of the Khasi and Jaintia Hills, the Garo Hills, the Lushai Hills, and the Naga Hills and the North Kachar sub-division of the Kachar district, the Mikir Hill Tracts in the Sibsagar and Nowgong districts and the Lakhimpur Frontier Tract.

The Act has been extended to the Union territories of—(1) Andaman and Nicobar Islands by Regulation I of 1961; (2) Dadra and Nagar Haveli by Regulation VI of 1963; (3) Goa, Daman and Diu by Regulation XI of 1963; (4) Laccadive, Minicoy and Amindivi Islands by Regulation VIII of 1965. These Islands are now known as Lakshadweep, see Act 34 of 1973, S. 3 and (5) Pondicherry by Act XXVI of 1968.

1. Substituted by Act 43 of 1955, S. 3, for sub-S. (2) (w.e.f. 1-4-1956).

2. Substituted by the Adaptation of Laws (No. 2) Order, 1956, for "Part B States".

## COMMENTS

It is open to the State Legislature to fix the rates of stamp duty in respect of documents specified in Entry 43, List I of the Constitution: *Li Taka Pharmaceuticals Ltd. v. State of Maharashtra* A.I.R. 1997 Bom. 7 (D.B.).

**2. Definitions.**—In this Act, unless there is something repugnant in the subject or context,—

(1) **Banker.**—“Banker” includes a bank and any person acting as a banker;

(2) **Bill of exchange.**—“Bill of exchange” means a bill of exchange as defined by the Negotiable Instruments Act, 1881 (26 of 1881), and includes also a hundi, and any other document entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money;

(3) **Bill of exchange payable on demand.**—“Bill of exchange payable on demand” includes—

(a) an order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen;

(b) an order for the payment of any sum of money weekly, monthly or at any other stated period; and

(c) a letter of credit, that is to say, any instrument by which one person authorises another to give credit to the person in whose favour it is drawn;

(4) **Bill of lading.**—“Bill of lading” includes a “through bill of lading”, but does not include a mate’s receipt;

(5) **Bond.**—“Bond” includes—

(a) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be;

(b) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another; and

(c) any instrument so attested, whereby a person obliges himself to deliver grain or other agricultural produce to another;

(6) **Chargeable.**—“chargeable” means, as applied to an instrument executed or first executed after the commencement of this Act, chargeable under this Act, and, as applied to any other instrument, chargeable under the law in force in <sup>3</sup>[India] when such instrument was executed or, where several persons executed the instrument at different times, first executed;

(7) **Cheque.**—“cheque” means a bill of exchange, drawn on a specified banker and not expressed to be payable otherwise than on demand;

<sup>4</sup>[\* \* \*]

3. Substituted by Act 43 of 1955, S. 2, for “the States” (w.e.f. 1-4-1956).

4. Definition of “Chief Controlling Revenue Authority” omitted by A.O. 1937. See now Cl. (10) of S. 3 of the General Clauses Act.



**(9) Collector.**—“Collector”—

(a) means, within the limits of the towns of Calcutta, Madras and Bombay, the Collector of Calcutta, Madras and Bombay, respectively and, without those limits, the Collector of a district, and

(b) includes a Deputy Commissioner and any officer whom<sup>5</sup>[the<sup>6</sup>[State Government]] may, by notification in the Official Gazette, appoint in this behalf;

**(10) Conveyance.**—“conveyance” includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred *inter vivos* and which is not otherwise specifically provided for by Schedule I;

**(11) Duly stamped.**—“duly stamped”, as applied to an instrument, means that the instrument bears an adhesive or impressed stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with the law for the time being in force in<sup>7</sup>[India];

**(12) Executed and execution.**—“executed” and “execution”, used with reference to instruments, mean “signed” and “signature”;

<sup>8</sup>[\*\*\*]

**(13) Impressed stamp.**—“impressed stamp” includes—

(a) labels affixed and impressed by the proper officer, and

(b) stamps embossed or engraved on stamped paper;

<sup>9</sup>[**(13-A) India.**—“India” means the territory of India excluding the State of Jammu and Kashmir;]

**(14) Instrument.**—“instrument” includes every document by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded;

**(15) Instrument of partition.**—“instrument of partition” means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any revenue-authority or any civil Court and an award by an arbitrator directing a partition;

**(16) Lease.**—“lease” means a lease of immovable property, and includes also—

(a) a patta;

(b) a *kabuliyat* or other undertaking in writing, not being a counter-part of a lease, to cultivate, occupy, or pay or deliver rent for, immovable property;

(c) any instrument by which tolls of any description are let;

(d) any writing on an application for a lease intended to signify that the application is granted;

5. Substituted by A.O. 1937, for “the L.G.”.

6. Substituted by A.O. 1950, for “collecting Government”.

7. Substituted by Act 43 of 1955, S. 2, for “the States” (w.e.f. 1-4-1956).

8. Definition of “collecting Government” inserted by A.O. 1937 was omitted by A.O. 1950.

9. Inserted by Act 43 of 1955, S. 4 (w.e.f. 1-4-1956).

<sup>10</sup>[(16-A) **Marketable security.**—“marketable security” means a security of such a description as to be capable of being sold in any stock market in <sup>11</sup>[India] or in the United Kingdom;]

(17) **Mortgage-deed.**—“mortgage-deed” includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates to, or in favour of another a right over or in respect of specified property;

(18) **Paper.**—“paper” includes vellum, parchment or any other material on which an instrument may be written;

(19) **Policy of insurance.**—“policy of insurance” includes—

(a) any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event;

(b) a life-policy, and any policy insuring any person against accident or sickness, and any other personal insurance; <sup>12</sup>[\*]

<sup>12</sup>[\*\*\*]

<sup>13</sup>[(19-A) **Policy of group insurance.**—“policy of group insurance” means any instrument covering not less than fifty or such smaller number as the Central Government may approve, either generally or with reference to any particular case, by which an insurer, in consideration of a premium paid by an employer or by an employer and his employees jointly, engages to cover, with or without medical examination and for the sole benefit of persons other than the employer, the lives of all the employees or of any class of them, determined by conditions pertaining to the employment, for amounts of insurance based upon a plan which precludes individual selection;]

(20) **Policy of sea-insurance or sea-policy.**—“policy of sea-insurance” or “sea-policy”—

(a) means any insurance made upon any ship or vessel (whether for marine or inland navigation), or upon the machinery, tackle or furniture of any ship or vessel, or upon any goods, merchandise or property of any description whatever on board of any ship or vessel, or upon the freight of, or any other interest which may be lawfully insured in, or relating to, any ship or vessel, and

(b) includes any insurance of goods, merchandise or property for any transit which includes, not only a sea risk within the meaning of clause (a), but also any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance;

where any person, in consideration of any sum of money paid or to be paid for additional freight or otherwise, agrees to take upon himself any risk attending goods, merchandise or property of any description whatever while on board of any ship or vessel, or engages to indemnify the owner of any such goods, merchandise or property from any risk, loss or damage, such agreement or engagement shall be deemed to be a contract for sea-insurance;

10. Inserted by Act 15 of 1904, S. 2.

11. Substituted by Act 43 of 1955, S. 2, for “the States” (w.e.f. 1-4-1956).

12. The word “and” and sub-Cl. (c) omitted by Act 5 of 1906, S. 2.

13. Inserted by Act 43 of 1955, S. 4 (w.e.f. 1-4-1956).

**(21) Power-of-attorney.**—“power-of-attorney” includes any instrument (not chargeable with a fee under the law relating to Court-fees for the time being in force) empowering a specified person to act for and in the name of the person executing it;

**(22) Promissory note.**—“promissory note” means a promissory note as defined by the Negotiable Instruments Act, 1881 (26 of 1881);

it also includes a note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen;

**(23) Receipt.**—“receipt” includes any note, memorandum or writing—

(a) whereby any money, or any bill of exchange, cheque or promissory note is acknowledged to have been received, or

(b) whereby any other movable property is acknowledged to have been received in satisfaction of a debt, or

(c) whereby any debt or demand, or any part of a debt or demand, is acknowledged to have been satisfied or discharged, or

(d) which signifies or imports any such acknowledgment, and whether the same is or is not signed with the name of any person;<sup>14</sup>[\*]

**(24) Settlement.**—“settlement” means any non-testamentary disposition, in writing, of movable or immovable property made—

(a) in consideration of marriage,

(b) for the purpose of distributing property of the settler among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him, or

(c) for any religious or charitable purpose;

and includes an agreement in writing to make such a disposition<sup>15</sup>[and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise, the terms of any such disposition];<sup>16</sup>[\*]

<sup>17</sup>**(25) Soldier.**—“soldier” includes any person below the rank of non-commissioned officer who is enrolled under the Indian Army Act, 1911[\*];

<sup>18</sup>**(26) Stamp.**—“Stamp” means any mark, seal or endorsement by any agency or person duly authorised by the State Government, and includes an adhesive or impressed stamp, for the purposes of duty chargeable under this Act.]

## CHAPTER II

### STAMP-DUTIES

#### A.—Of the liability of instruments to duty

**3. Instruments chargeable with duty.**—Subject to the provisions of this Act and the exemptions contained in Schedule I, the following instruments shall be chargeable with duty of the amount indicated in that Schedule as the proper duty therefor, respectively, that is to say,—

\*Now see the Army Act, 1950 (46 of 1950).

14. The word “and” omitted by Act 18 of 1928, S. 2 and Sch. I.

15. Inserted by Act 15 of 1904, S. 2.

16. The word “and” inserted by Act 18 of 1928, S. 2 and Sch. I, omitted by A.O. 1950.

17. Added by Act 18 of 1928, S. 2 and Sch. I.

18. Cl. (26) inserted by Act 23 of 2004, S. 117 (w.e.f. 10-9-2004).

(a) every instrument mentioned in that Schedule which, not having been previously executed by any person, is executed in <sup>19</sup>[India] on or after the first day of July, 1899;

(b) every bill of exchange <sup>20</sup>[payable otherwise than on demand] <sup>21</sup>[\*] or promissory note drawn or made out of <sup>19</sup>[India] on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated, in <sup>19</sup>[India]; and

(c) every instrument (other than a bill of exchange <sup>21</sup>[\*] or promissory note) mentioned in that Schedule, which not having been previously executed by any person, is executed out of <sup>19</sup>[India] on or after that day, relates to any property situate, or to any matter or thing done or, to be done, in <sup>19</sup>[India] and is received in <sup>19</sup>[India]:

Provided that no duty shall be chargeable in respect of—

(1) any instrument executed by, or on behalf of, or in favour of, the Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument;

(2) any instrument for the sale, transfer or other disposition, either absolutely or by way of mortgage or otherwise, of any ship or vessel, or any part, interest, share or property of or in any ship or vessel registered under the Merchant Shipping Act, 1894, or under Act XIX of 1838, or the Indian Registration of Ships Act, 1841 (57 and 58 Vict., c. 60. 10 of 1841), as amended by subsequent Acts;

<sup>19a</sup>(3) any instrument executed, by, or, on behalf of, or, in favour of, the Developer, or Unit or in connection with the carrying out of purposes of the Special Economic Zone.

*Explanation.*—For the purposes of this clause, the expressions “Developer”, “Special Economic Zone” and “Unit” shall have meanings respectively assigned to them in clause (g), (za) and (zc) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005).]

**3-A. Instruments chargeable with additional duty.**—[*Repealed by the Refugee Relief Taxes Abolition Act, 1973 (13 of 1973), section 2 (w.e.f. 1-4-1973).*]

**4. Several instruments used in single transaction of sale, mortgage or settlement.**—(1) Where, in the case of any sale, mortgage or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed in Schedule I, for the conveyance, mortgage or settlement, and each of the other instruments shall be chargeable with a duty of one rupee instead of the duty (if any) prescribed for it in that Schedule.

(2) The parties may determine for themselves which of the instrument so employed shall, for the purposes of sub-section (1), be deemed to be the principal instrument:

Provided that the duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect of any of the said instruments employed.

**5. Instruments relating to several distinct matters.**—Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.

**6. Instruments coming within several descriptions in Schedule I.**—Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the descriptions in Schedule I, shall, where the

19. Substituted by Act 43 of 1955, S. 2, for “the States” (w.e.f. 1-4-1956).

19a. Inserted by Act 28 of 2005, S. 57 and Sch. II

20. Inserted by Act 5 of 1927, S. 5.

21. The word “cheque” omitted by Act 5 of 1927, S. 5.

duties chargeable thereunder are different, be chargeable only with the highest of such duties:

Provided that nothing in this Act contained shall render chargeable with duty exceeding one rupee a counter part or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

**7. Policies of sea-insurance.**—<sup>22</sup>[\*\*\*\*\*]

(4) Where any sea-insurance is made for or upon a voyage and also for time, or to extend to or cover any time beyond thirty days after the ship shall have arrived at her destination and been there moored at anchor, the policy shall be charged with duty as a policy for or upon a voyage, and also with duty as a policy for time.

**8. Bonds, debentures or other securities issued on loans under Act 11 of 1879.**—(1) Notwithstanding anything contained in this Act, any local authority raising a loan under the provisions of the Local Authorities Loan Act, 1879 (11 of 1879), or of any other law for the time being in force, by the issue of bonds, debentures or other securities, shall, in respect of such loan, be chargeable with a duty of <sup>23</sup>[one per centum] on the total amount of the bonds, debentures or other securities issued by it, and such bonds, debentures or other securities need not be stamped and shall not be chargeable with any further duty on renewal, consolidation, sub-division or otherwise.

(2) The provisions of sub-section (1) exempting certain bonds, debentures or other securities from being stamped and from being chargeable with certain further duty shall apply to the bonds, debentures or other securities of all outstanding loans of the kind mentioned therein, and all such bonds, debentures or other securities shall be valid, whether the same are stamped or not:

Provided that nothing herein contained shall exempt the local authority which has issued such bonds, debentures or other securities from the duty chargeable in respect thereof prior to the twenty-sixth day of March, 1897, when such duty has not already been paid or remitted by order issued by the Central Government.

(3) In the case of wilful neglect to pay the duty required by this section, the local authority shall be liable to forfeit to the Government a sum equal to ten per centum upon the amount of duty payable, and a like penalty for every month after the first month during which the neglect continues.

<sup>24</sup>[**8-A. Securities dealt in depository not liable to stamp duty.**— Notwithstanding anything contained in this Act or any other law for the time being in force,—

(a) an issuer, by the issue of securities to one or more depositories shall, in respect of such issue, be chargeable with duty on the total amount of security issued by it and such securities need not be stamped;

(b) where an issuer issues certificate of security under sub-section (3) of section 14 of the Depositories Act, 1996 (22 of 1996), on such certificate duty shall be payable as is payable on the issue of duplicate certificate under this Act;

(c) the transfer of—

(i) registered ownership of securities from a person to a depository or from a depository to a beneficial owner;

(ii) beneficial ownership of securities, dealt with by a depository;

(iii) beneficial ownership of units, such units being units of a Mutual Fund including units of the Unit Trust of India established under sub-section (1) of section 3 of the Unit Trust of India Act, 1963 (52 of 1963), dealt with by a depository, shall not be liable to duty under this Act or any other law for the time being in force.

22. Sub-Ss. (1), (2) and (3) repealed by Act 11 of 1963, S. 92 (w.e.f. 1-8-1963).

23. Substituted by Act 6 of 1910, S. 2, for "eight annas per centum".

24. Substituted by Act 10 of 2000, S. 118 (w.e.f. 12-5-2000), for the original S. 8-A which was inserted by Act 22 of 1996, S. 30 and Sch. (w.r.e.f. 20-9-1995).

*Explanation 1.*—For the purposes of this section, the expressions “beneficial owner”, “depository” and “issuer”, shall have the meanings respectively assigned to them in clauses (a), (e) and (f) of sub-section (1) of section 2 of the Depositories Act, 1996 (22 of 1996).

*Explanation 2.*—For the purposes of this section, the expression “securities” shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).]

<sup>25</sup>[8-B. Corporatisation and demutualisation schemes and related instruments not liable to duty.—Notwithstanding anything contained in this Act or any other law for the time being in force,—

(a) a scheme for corporatisation or demutualisation, or both of a recognised stock exchange; or

(b) any instrument, including an instrument of, or relating to, transfer of any property, business, asset whether movable or immovable, contract, right, liability and obligation, for the purpose of, or in connection with, the corporatisation or demutualisation, or both of a recognised stock exchange pursuant to a scheme,

as approved by the Securities and Exchange Board of India under sub-section (2) of section 4-B of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), shall not be liable to duty under this Act or any other law for the time being in force.

*Explanation.*—For the purposes of this section,—

(a) the expressions “corporatisation”, “demutualisation” and “scheme” shall have the meanings respectively assigned to them in clauses (aa), (ab) and (ga) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(b) “Securities and Exchange Board of India” means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992).]

<sup>25a</sup>[8-C. Negotiable warehouse receipts not liable to stamp duty.—Notwithstanding anything contained in this Act, negotiable warehouse receipts shall not be liable to stamp duty.]

**9. Power to reduce, remit or compound duties.**—<sup>26</sup>[(1)] <sup>27</sup>[The <sup>28</sup>[\*] Government] may, by rule or order published in the Official Gazette,—

(a) reduce or remit, whether prospectively or retrospectively, in the whole or any part of <sup>27</sup>[the territories under its administration], the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable, and

(b) provide for the composition or consolidation of duties <sup>29</sup>[of policies of insurance and] in the case of issues by any incorporated company or other body corporate <sup>30</sup>[or of transfers (where there is a single transferee, whether incorporated or not)] of debentures, bonds or other marketable securities.]

<sup>26</sup>[(2) In this section, the expression “the Government” means,—

(a) in relation to stamp-duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts, and in relation to any other stamp-duty chargeable under this Act and falling within Entry 96 in List I in the

25. Inserted by Act 18 of 2005, S. 114 (w.e.f. 13-5-2005).

25a. Inserted by Act 37 of 2007, S. 55.

26. S. 9 renumbered as sub-S. (1) thereof and sub-S. (2) added by A.O. 1950.

27. Substituted by A.O. 1937.

28. The word “collecting” omitted by A.O. 1950.

29. Inserted by Act 23 of 2004, S. 117 (w.e.f. 10-9-2004).

<sup>31</sup>[Seventh Schedule to the Constitution, except the subject matters referred to in clause (b) of sub-section (1)], the Central Government;

(b) save as aforesaid, the State Government.]

B.—Of stamps and the mode of using them

**10. Duties how to be paid.**—(1) Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and such payment shall be indicated on such instruments, by means of stamps—

(a) according to the provisions herein contained; or

(b) when no such provision is applicable thereto—as the <sup>31a</sup>[State Government] may by rule direct.

(2) The rules made under sub-section (1) may, among other matters, regulate,—

(a) in the case of each kind of instrument—the description of stamps which may be used;

(b) in the case of instruments stamped with impressed stamps—the number of stamps which may be used;

(c) in the case of bills of exchange or promissory notes <sup>32</sup>[\* \* \*]—the size of the paper on which they are written.

**11. Use of adhesive stamps.**—The following instruments may be stamped with adhesive stamps, namely:—

(a) instruments chargeable <sup>33</sup>[with a duty not exceeding ten naye paise] except parts of bills of exchange payable otherwise than on demand and drawn in sets;

(b) bills of exchange <sup>34</sup>[\*] and promissory notes drawn or made out of <sup>35</sup>[India];

(c) entry as an advocate, *vakil* or attorney on the roll of a High Court;

(d) notarial acts; and

(e) transfers by endorsement of shares in any incorporated company or other body corporate.

**12. Cancellation of adhesive stamps.**—(1) (a) Whoever affixes any adhesive stamp to any instrument chargeable with duty which has been executed by any person shall, when affixing such stamp, cancel the same so that it cannot be used again; and

(b) whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.

(2) Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again, shall, so far as such stamp is concerned, be deemed to be unstamped.

31. Substituted by Act 21 of 2006, S. 69, for "Seventh Schedule to the Constitution".

31a. Substituted by A.O. 1950, for "collecting Government".

32. The words "written in any Oriental language" omitted by Act 43 of 1955, S. 5 (w.e.f. 1-4-1956).

33. Substituted by Act 19 of 1958, S. 2, for "with the duty of one anna or half an anna" (w.e.f. 1-10-1958).

34. The word "cheques" omitted by Act 5 of 1927, S. 5.

35. Substituted by Act 43 of 1955, S. 2, for "the States" (w.e.f. 1-4-1956).

(3) The person required by sub-section (1) to cancel an adhesive stamp may cancel it by writing on or across the stamp his name or initials or the name or initials of his firm with the true date of his so writing, or in any other effectual manner.

**13. Instruments stamped with impressed stamps how to be written.**—Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

**14. Only one instrument to be on same stamp.**—No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written:

Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

**15. Instrument written contrary to section 13 or 14 deemed unstamped.**—Every instrument written in contravention of section 13 or section 14 shall be deemed to be unstamped.

**16. Denoting duty.**—Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last-mentioned duty shall, if application is made in writing to the Collector for that purpose, and on production of both the instruments, be denoted upon such first-mentioned instrument by endorsement under the hand of the Collector or in such other manner (if any) as the <sup>36</sup>[State Government] may by rule prescribe.

*C.—Of the time of stamping instruments*

**17. Instruments executed in India.**—All instruments chargeable with duty and executed by any person in <sup>37</sup>[India] shall be stamped before or at the time of execution.

**18. Instruments other than bills and notes executed out of India.**—(1) Every instrument chargeable with duty executed only out of <sup>37</sup>[India], and not being a bill of exchange <sup>38</sup>[\*] or promissory note, may be stamped within three months after it has been first received in <sup>37</sup>[India].

(2) Where any such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, who shall stamp the same, in such manner as the <sup>36</sup>[State Government] may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

**19. Bills and notes drawn out of India.**—The first holder in <sup>37</sup>[India] of any bill of exchange <sup>39</sup>[payable otherwise than on demand] <sup>38</sup>[\*] or promissory note drawn or made out of <sup>37</sup>[India] shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in <sup>37</sup>[India], affix thereto the proper stamp and cancel the same:

36. Substituted by A.O. 1950, for "collecting Government".

37. Substituted by Act 43 of 1955, S. 2, for "the States" (w.e.f. 1-4-1956).

38. The word "cheque" omitted by Act 5 of 1927, S. 5.

39. Inserted by Act 5 of 1927, S. 5.



Provided that—

(a) if, at the time any such bill of exchange <sup>40</sup>[\*] or note comes into the hands of any holder thereof in <sup>41</sup>[India], the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section 12, and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by the person and at the time required by this Act, such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled;

(b) nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

*D.—Of valuations for duty*

**20. Conversion of amount expressed in foreign currencies.**—(1) Where an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any currency other than that of <sup>41</sup>[India], such duty shall be calculated on the value of such money in the currency of <sup>41</sup>[India] according to the current rate of exchange on the day of the date of the instrument.

(2) The <sup>42</sup>[Central Government] may, from time to time, by notification in the Official Gazette, prescribe a rate of exchange for the conversion of British or any foreign currency into the currency of <sup>41</sup>[India] for the purposes of calculating stamp-duty, and such rate shall be deemed to be the current rate for the purposes of sub-section (1).

**21. Stock and marketable securities how to be valued.**—Where an instrument is chargeable with *ad valorem* duty in respect of any stock or of any marketable or other security, such duty shall be calculated on the value of such stock or security according to the average price or the value thereof on the day of the date of the instrument.

**22. Effect of statement of rate of exchange or average price.**—Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it shall, so far as regards the subject-matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

**23. Instruments reserving interest.**—Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with duty higher than that which it would have been chargeable had no mention of interest been made therein.

**<sup>43</sup>[23-A. Certain instruments connected with mortgages of marketable securities to be chargeable as agreements.]**—(1) Where an instrument (not being a promissory note or bill of exchange)—

(a) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt, or

(b) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security,

40. The word "cheque" omitted by Act 5 of 1927, S. 5.

41. Substituted by Act 43 of 1955, S. 2, for "the States" (w.e.f. 1-4-1956).

42. Substituted by A.O. 1937, for "Governor-General in Council".

43. Inserted by Act 15 of 1904, S. 4.

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under <sup>44</sup>[Article No. 5(c)] of Schedule I.

(2) A release or discharge of any such instrument shall only be chargeable with the like duty.]

**24. How transfer in consideration of debt, or subject to future payment, etc., to be charged.**—Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt, money or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with *ad valorem* duty:

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article No. 18 of Schedule I.

*Explanation.*—In the case of a sale of property subject to a mortgage or other incumbrance, any unpaid mortgage-money or money charged, together with the interest (if any) due on the same, shall be deemed to be part of the consideration for the sale:

Provided that, where property, subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage.

#### *Illustrations*

(1) A owes B Rs. 1,000. A sells a property to B, the consideration being Rs. 500 and the release of the previous debt of Rs. 1,000. Stamp duty is payable on Rs. 1,500.

(2) A sells a property to B for Rs. 500 which is subject to a mortgage to C for Rs. 1,000 and unpaid interest Rs. 200. Stamp duty is payable on Rs. 1,700.

(3) A mortgages a house of the value of Rs. 10,000 to B for Rs. 5,000. B afterwards buys the house from A. Stamp duty is payable on Rs. 10,000 less the amount of stamp duty already paid for the mortgage.

**25. Valuation in case of annuity, etc.**—Where an instrument is executed to secure the payment of an annuity or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument or the consideration for such conveyance, as the case may be, shall, for the purposes of this Act, be deemed to be—

(a) where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained—such total amount;

(b) where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance—the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of twenty years calculated from the date on which the first payment becomes due; and

(c) where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance—the maximum amount which will or may be payable as aforesaid during the period of twelve years calculated from the date on which the first payment becomes due.

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44. Substituted by Act 1 of 1912, S. 3, for "Article No. 5(b)".

**26. Stamp where value of subject-matter is indeterminate.**—Where the amount or value of the subject-matter of any instrument chargeable with *ad valorem* duty cannot be, or (in the case of an instrument executed before the commencement of this Act) could not have been, ascertained at the date of its execution or first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient:

<sup>45</sup>[Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp duty,—

(a) when the lease has been granted by or on behalf of <sup>46</sup>[the Government], at such amount or value as the Collector may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to <sup>47</sup>[the Government] under the lease, or

(b) when the lease has been granted by any other person, at twenty thousand rupees a year, and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease:]

Provided also that, where proceedings have been taken in respect of an instrument under section 31 or 41, the amount certified by the Collector shall be deemed to be the stamp actually used at the date of execution.

**27. Facts affecting duty to be set forth in instrument.**—The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

**28. Direction as to duty in case of certain conveyances.**—(1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, provided that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad valorem* duty in respect of such distinct consideration.

(2) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the persons by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

(3) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the same to any other person and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with *ad valorem* duty in

45. Substituted by Act 15 of 1904, S. 4, for the original proviso.

46. Substituted by A.O. 1937, for "the Secretary of State in Council".

47. Substituted by A.O. 1937, for "the said Secretary of State in Council".

respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(4) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the whole, or any part thereof, to any other person or persons, and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to sub-purchaser shall be chargeable with *ad valorem* duty in respect only of the consideration paid by such sub-purchaser, without regard to the amount or value of the original consideration; and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with *ad valorem* duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchaser:

Provided that the duty on such last-mentioned conveyance shall in no case be less than one rupee.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration paid by him and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller, or, where such duty would exceed five rupees, with a duty of five rupees.

*E.—Duty by whom payable*

**29. Duties by whom payable.**—In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne,—

(a) in the case of any instrument described in any of the following articles of Schedule I, namely:—

No. 2 (Administration Bond),

<sup>48</sup>[No. 6 (Agreement relating to Deposit of Title-deeds, Pawn or Pledge),]

No. 13 (Bill of Exchange),

No. 15 (Bond),

No. 16 (Bottomry Bond),

No. 26 (Customs Bond),

No. 27 (Debenture),

No. 32 (Further charge),

No. 34 (Indemnity Bond),

No. 40 (Mortgage-deed),

No. 49 (Promissory-note),

No. 55 (Release),

No. 56 (Respondentia Bond),

No. 57 (Security-bond or Mortgage-deed),

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48. Substituted by Act 15 of 1904, S. 5, for "No. 6 (Agreement to mortgage)".

No. 58 (Settlement),

No. 62(a) (Transfer of shares, in an incorporated Company or other body corporate),

No. 62(b) (Transfer of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8),

No. 62(c) (Transfer of any interest secured by a bond, mortgage-deed or policy of insurance),—

by the person drawing, making or executing such instrument;

<sup>49</sup>[(b) in the case of a policy of insurance other than fire-insurance—by the person effecting the insurance;

(bb) in the case of a policy of fire-insurance—by the person issuing the policy;]

(c) in the case of a conveyance (including a reconveyance of mortgaged property)—by the grantee; in the case of a lease or agreement to lease—by the lessee or intended lessee;

(d) in the case of a counterpart of a lease—by the lessor;

(e) in the case of an instrument of exchange—by the parties in equal shares;

(f) in the case of a certificate of sale—by the purchaser of the property to which such certificate relates; and

(g) in the case of an instrument of partition—by the parties thereto in proportion to their respective shares in the whole property partitioned, or when the partition is made in execution of an order passed by a revenue-authority or civil Court or arbitrator, in such proportion as such authority, Court or arbitrator directs.

**30. Obligation to give receipt in certain cases.**—Any person receiving any money exceeding twenty rupees in amount, or any bill of exchange, cheque or promissory note for an amount exceeding twenty rupees, or receiving in satisfaction or part satisfaction of a debt any movable property exceeding twenty rupees in value, shall, on demand by the person paying or delivering such money, bill, cheque, note or property, give a duly stamped receipt for the same.

<sup>50</sup>[Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire-insurance, shall, within one month after receiving or taking credit for such premium or consideration, give a duly stamped receipt for the same.]

### CHAPTER III

#### ADJUDICATION AS TO STAMPS

**31. Adjudication as to proper stamp.**—(1) When any instrument, whether executed or not and whether previously stamped or not, is brought to the Collector, and the person bringing it applies to have the opinion of that officer as to the duty (if any) with which it is chargeable, and pays a fee of such

49. Substituted by Act 5 of 1906, S. 4, for original Cl. (b).

50. Added by Act 5 of 1906, S. 5.

amount (not exceeding five rupees and not less than <sup>51</sup>[fifty naye paise]) as the Collector may in each case direct, the Collector shall determine the duty (if any) with which, in his judgment, the instrument is chargeable.

(2) For this purpose the Collector may require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly:

Provided that—

(a) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an inquiry as to the duty with which the instrument to which it relates is chargeable; and

(b) every person by whom any such evidence is furnished shall, on payment of the full duty with which the instrument to which it relates, is chargeable, be relieved from any penalty which he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

**32. Certificate by Collector.**—(1) When an instrument brought to the Collector under section 31 is, in his opinion, one of a description chargeable with duty, and—

(a) the Collector determines that it is already fully stamped, or

(b) the duty determined by the Collector under section 31, or such a sum as, with the duty already paid in respect of the instrument, is equal to the duty so determined, has been paid,

the Collector shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

(2) When such instrument is, in his opinion, not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.

(3) Any instrument upon which an endorsement has been made under this section, shall be deemed to be duly stamped or not chargeable with duty, as the case may be, and, if chargeable with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped:

Provided that nothing in this section shall authorise the Collector to endorse—

(a) any instrument executed or first executed in <sup>52</sup>[India] and brought to him after the expiration of one month from the date of its execution or first execution, as the case may be;

(b) any instrument executed or first executed out of <sup>52</sup>[India] and brought to him after the expiration of three months after it has been first received in <sup>52</sup>[India]; or

51. Substituted by Act 19 of 1958, S. 3, for "eight annas" (w.e.f. 1-10-1958).

52. Substituted by Act 43 of 1955, S. 2, for "the States" (w.e.f. 1-4-1956).

(c) any instrument chargeable <sup>53</sup>[with a duty not exceeding ten naye paise] or any bill of exchange or promissory, note, when brought to him, after the drawing or execution thereof, on paper not duly stamped.

#### CHAPTER IV

#### INSTRUMENTS NOT DULY STAMPED

**33. Examination and impounding of instruments.**—(1) Every person having by law or consent of parties authority to receive evidence, and every person in charge of a public office, except an officer of police, before whom any instrument, chargeable, in his opinion, with duty, is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.

(2) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in <sup>54</sup>[India] when such instrument was executed or first executed:

Provided that—

(a) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898 (5 of 1898)<sup>55</sup>;

(b) in the case of a Judge of a High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

(3) For the purposes of this section, in cases of doubt,—

(a) <sup>56</sup>[the <sup>57</sup>[State Government]] may determine what offices shall be deemed to be public offices; and

(b) <sup>56</sup>[the <sup>57</sup>[State Government]] may determine who shall be deemed to be persons in charge of public offices.

**34. Special provision as to unstamped receipts.**—Where any receipt chargeable <sup>58</sup>[with a duty not exceeding ten naye paise] is tendered to or produced before any officer unstamped in the course of the audit of any public account, such officer may, in his discretion instead of impounding the instrument, require a duly stamped receipt to be substituted therefor.

**35. Instruments not duly stamped inadmissible in evidence, etc.**—No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped:

53. Substituted by Act 19 of 1958, S. 4, for "with the duty of one anna or half an anna" (w.e.f. 1-10-1958).

54. Substituted by Act 43 of 1955, S. 2, for "the States" (w.e.f. 1-4-1956).

55. Now see the Code of Criminal Procedure, 1973 (2 of 1974).

56. Substituted by A.O. 1937, for "the Governor-General in Council".

57. Substituted by A.O. 1950, for "collecting Government".

58. Substituted by Act 19 of 1958, S. 5, for "with a duty of one anna" (w.e.f. 1-10-1958).

Provided that—

(a) any such instrument <sup>59</sup>[shall] be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of an instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty of five rupees, or, when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion;

(b) where any person from whom a stamped receipt could have been demanded, has given an unstamped receipt and such receipt, if stamped, would be admissible in evidence against him, then such receipt shall be admitted in evidence against him on payment of a penalty of one rupee by the person tendering it;

(c) where a contract or agreement of any kind is effected by correspondence consisting of two or more letters and any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped;

(d) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a criminal Court, other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898\*;

(e) nothing herein contained shall prevent the admission of any instrument in any Court when such instrument has been executed by or on behalf of the Government, or where it bears the certificate of the Collector as provided by section 32 or any other provision of this Act.

**36. Admission of instrument where not to be questioned.**—Where an instrument has been admitted in evidence, such admission shall not, except as provided in section 61, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

**37. Admission of improperly stamped instruments.**—<sup>60</sup>[The <sup>61</sup>[State Government]] may make rules providing that, where an instrument bears a stamp of sufficient amount but of improper description, it may, on payment of the duty with which the same is chargeable, be certified to be duly stamped, and any instrument so certified shall then be deemed to have been duly stamped as from the date of its execution.

**38. Instruments impounded, how dealt with.**—(1) When the person impounding an instrument under section 33 has by law or consent of parties authority to receive evidence and admits such instrument in evidence upon payment of a penalty as provided by section 35 or of duty as provided by section 37, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the amount of duty and penalty levied in respect thereof, and shall send such amount to the Collector, or to such person as he may appoint in this behalf.

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\*Now see the Code of Criminal Procedure, 1973 (2 of 1974).

59. Substituted by Act 21 of 2006, S. 69, for "not being an instrument chargeable with a duty not exceeding ten naye paise only, or a bill of exchange or promissory note, shall, subject to all just exceptions,".

60. Substituted by A.O. 1937, for "the G.G. in C.".

61. Substituted by A.O. 1950, for "collecting Government".



(2) In every other case, the person so impounding an instrument shall send it in original to the Collector.

**39. Collector's power to refund penalty paid under section 38, sub-section (1).**—(1) When a copy of an instrument is sent to the Collector under section 38, sub-section (1), he may, if he thinks fit,<sup>62</sup>[\* \* \*] refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument.

(2) When such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may refund the whole penalty so paid.

**40. Collector's power to stamp instruments impounded.**—(1) When the Collector impounds any instrument under section 33, or receives any instrument sent to him under section 38, sub-section (2), not being an instrument chargeable<sup>63</sup>[with a duty not exceeding ten naye paise] only or a bill of exchange or promissory note, he shall adopt the following procedure:—

(a) if he is of opinion that such instrument is duly stamped, or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable, as the case may be:

(b) if he is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of the five rupees, or, if he thinks fit,<sup>64</sup>[an amount not exceeding] ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees:

Provided that, when such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

(2) Every certificate under clause (a) of sub-section (1) shall, for the purposes of this Act, be conclusive evidence of the matter stated therein.

(3) Where an instrument has been sent to the Collector under section 38, sub-section (2), the Collector shall, when he has dealt with it as provided by this section, return it to the impounding officer.

**41. Instruments unduly stamped by accident.**—If any instrument chargeable with duty and not duly stamped, not being an instrument chargeable<sup>63</sup>[with a duty not exceeding ten naye paise] only or a bill of exchange or promissory note, is produced by any person of his own motion before the Collector within one year from the date of its execution or first execution, and such person brings to the notice of the Collector the fact that such instrument is not duly stamped and offers to pay the Collector the amount of the proper duty, or the amount required to make up the same, and the Collector is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of

62. The words "upon application made to him in this behalf or, if no application is made, with the consent of the Chief Controlling Revenue-authority" omitted by Act 4 of 1914, S. 2 and Sch.

63. Substituted by Act 19 of 1958, S. 6, for "with a duty of one anna or half an anna," (w.e.f. 1-10-1958).

64. Inserted by Act 15 of 1904, S. 6.

proceeding under sections 33 and 40, receive such amount and proceed as next hereinafter prescribed.

**42. Endorsement of instruments on which duty has been paid under section 35, 40 or 41.**—(1) When the duty and penalty (if any) leviable in respect of any instrument have been paid under section 35, section 40 or section 41, the person admitting such instrument in evidence or the Collector, as the case may be, shall certify by endorsement thereon that the proper duty or, as the case may be, the proper duty and penalty (stating the amount of each) have been levied in respect thereof and the name and residence of the person paying them.

(2) Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered or acted upon and authenticated as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct:

Provided that—

(a) no instrument which has been admitted in evidence upon payment of duty and a penalty under section 35, shall be so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary and has not cancelled such certificate;

(b) nothing in this section shall affect the Code of Civil Procedure (14 of 1882), section 144, clause 3\*.

**43. Prosecution for offence against Stamp-law.**—The taking of proceeding or the payment of a penalty under this Chapter in respect of any instrument shall not bar the prosecution of any person who appears to have committed an offence against the Stamp-law in respect of such instrument:

Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with an intention of evading payment of the proper duty.

**44. Persons paying duty or penalty may recover same in certain cases.**—

(1) When any duty or penalty has been paid under section 35, section 37, section 40 or section 41, by any person in respect of an instrument, and, by agreement or under the provisions of section 29 or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid.

(2) For the purpose of such recovery any certificate granted in respect of such instrument under this Act shall be conclusive evidence of the matters therein certified.

(3) Such amount may, if the Court thinks fit, be included in any order as to costs in any suit or proceeding to which such persons are parties and in which such instrument has been tendered in evidence. If the Court does not include the amount in such order, no further proceedings for the recovery of the amount shall be maintainable.

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\*Now see the Code of Civil Procedure, 1908 (5 of 1908), Sch. I, O. 13, R. 9.

**45. Power to revenue-authority to refund penalty or excess duty in certain cases.**—(1) Where any penalty is paid under section 35 or section 40, the Chief Controlling Revenue-authority may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.

(2) Where, in the opinion of the Chief Controlling Revenue-authority, stamp duty in excess of that which is legally chargeable has been charged and paid under section 35 or section 40, such authority may, upon application in writing made within three months of the order charging the same, refund the excess.

**46. Non-liability for loss of instruments sent under section 38.**—(1) If any instrument sent to the Collector under section 38, sub-section (2), is lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage.

(2) When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same, may require a copy thereof to be made at the expense of such first-mentioned person and authenticated by the person impounding such instrument.

**47. Power of payer to stamp bills and promissory notes received by him unstamped.**—When any bill of exchange <sup>65</sup>[or promissory note] chargeable <sup>66</sup>[with a duty not exceeding ten naye paise] is presented for payment unstamped, the person to whom it is so presented, may affix thereto the necessary adhesive stamp, and, upon cancelling the same in manner hereinbefore provided, may pay the sum payable upon such bill <sup>67</sup>[or note], and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as aforesaid, and such bill <sup>67</sup>[or note] shall, so far as respects the duty, be deemed good and valid:

Provided that nothing herein contained shall relieve any person from any penalty or proceeding to which he may be liable in relation to such bill <sup>67</sup>[or note].

**48. Recovery of duties and penalties.**—All duties, penalties and other sums required to be paid under this Chapter may be recovered by the Collector by distress and sale of the movable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land-revenue.

## CHAPTER V

### ALLOWANCES FOR STAMPS IN CERTAIN CASES

**49. Allowance for spoiled stamps.**—Subject to such rules as may be made by <sup>68</sup>[the <sup>69</sup>[State Government]] as to the evidence to be required or, the enquiry to be made, the Collector may, on application made within the period prescribed in section 50, and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases hereinafter mentioned, namely:—

(a) the stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the

65. Substituted by Act 5 of 1927, S. 5, for "promissory note or cheque".

66. Substituted by Act 19 of 1958, S. 7, for "with the duty of one anna" (w.e.f. 1-10-1958).

67. Substituted by Act 5 of 1927, S. 5, for "note or cheque".

68. Substituted by A.O. 1937, for "the L.G.".

69. Substituted by A.O. 1950, for "collecting Government".

purpose intended before any instrument written thereon is executed by any person;

(b) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party thereto;

(c) in the case of bills of exchange <sup>70</sup>[payable otherwise than on demand <sup>71</sup>[\*] or promissory notes—

(1) the stamp on <sup>72</sup>[any such bill of exchange] <sup>73</sup>[\* \*] signed by or on behalf of the drawer which has not been accepted or made use of in any manner whatever or delivered out of his hands for any purpose other than by way of tender for acceptance: provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange <sup>73</sup>[\* \*] to be afterwards written thereon;

(2) the stamp on any promissory note signed by or on behalf of the maker which has not been made use of in any manner whatever or delivered out of his hands;

(3) the stamp used or intended to be used for <sup>72</sup>[any such bill of exchange] <sup>71</sup>[\*] or promissory note signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange <sup>73</sup>[\* \*] may have been presented for acceptance or accepted or endorsed, or being a promissory note, may have been delivered to the payee: provided that another completed and duly stamped bill of exchange <sup>71</sup>[\*] or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill <sup>71</sup>[\*] or note;

(d) the stamp used for an instrument executed by any party thereto which—

(1) has been afterwards found to be absolutely void in law from the beginning;

(2) has been afterwards found unfit, by reason of any error or mistake therein for the purpose originally intended;

(3) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot be completed so as to effect the intended transaction in the form proposed;

(4) for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended;

(5) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose;

(6) becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument between the same parties and bearing a stamp of not less value;

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70. Inserted by Act 5 of 1927, S. 5.

71. The word "cheque" omitted by Act 5 of 1927, S. 5.

72. Substituted by Act 5 of 1927, S. 5, for "any bill of exchange".

73. The words "or cheque" omitted by Act 5 of 1927, S. 5.

(7) is deficient in value and the transaction intended to be thereby effected has been effected by some other instrument between the same parties and bearing a stamp of not less value;

(8) is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped:

Provided that, in the case of an executed instrument, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and that the instrument is given up to be cancelled.

*Explanation.*—The certificate of the Collector under section 32 that the full duty with which an instrument is chargeable, has been paid is an impressed stamp within the meaning of this section.

**50. Application for relief under section 49 when to be made.**—The application for relief under section 49 shall be made within the following periods, that is to say,—

(1) in the cases mentioned in clause (d)(5), within two months of the date of the instrument;

(2) in the case of a stamped paper on which no instrument has been executed by any of the parties thereto, within six months after the stamp has been spoiled;

(3) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed:

Provided that,—

(a) when the spoiled instrument has been for sufficient reasons, sent out of <sup>74</sup>[India], the application may be made within six months after it has been received back in <sup>74</sup>[India];

(b) when, from unavoidable circumstances, any instrument for which another instrument has been substituted, cannot be given up to be cancelled within the aforesaid period, the application may be made within six months after the date of execution of the substituted instrument.

**51. Allowance in case of printed forms no longer required by Corporations.**—The Chief Controlling Revenue-authority <sup>75</sup>[or the Collector, if empowered by the Chief Controlling Revenue-authority in this behalf], may, without limit of time, make allowance for stamped papers used for printed forms of instruments <sup>76</sup>[by any banker or] by any incorporated company or other body corporate, if for any sufficient reason such forms have ceased to be required by the said <sup>76</sup>[banker], company or body corporate: provided that such authority is satisfied that the duty in respect of such stamped papers has been duly paid.

**52. Allowance for misused stamps.**—(a) When any person has inadvertently used for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made

74. Substituted by Act 43 of 1955, S. 2, for "the States" (w.e.f. 1-4-1956).

75. Inserted by Act 4 of 1914, S. 2 and Sch.

76. Inserted by Act 5 of 1906, S. 6.

under this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty; or

(b) when any stamp used for an instrument has been inadvertently rendered useless under section 15, owing to such instrument having been written in contravention of the provisions of section 13,

the Collector may, on application made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

**53. Allowance for spoiled or misused stamps how to be made.**—In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof—

(a) other stamps of the same description and value; or

(b) if required and he thinks fit, stamps of any other description to the same amount in value; or

(c) at his discretion, the same value in money, deducting <sup>77</sup>[ten naye paise] for each rupee or fraction of a rupee.

**54. Allowance for stamps not required for use.**—When any person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp or stamps in money, deducting <sup>77</sup>[ten naye paise] for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled and proving to the Collector's satisfaction—

(a) that such stamp or stamps were purchased by such person with a *bona fide* intention to use them; and

(b) that he has paid the full price thereof; and

(c) that they were so purchased within the period of six months next preceding the date on which they were so delivered:

Provided that, where the person is a licensed vendor of stamps, the Collector may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid.

<sup>78</sup>[**54-A. Allowances for stamps in denominations of annas.**—Notwithstanding anything contained in section 54, when any person is possessed of a stamp or stamps in any denominations other than in denominations of annas four or multiples thereof and such stamp or stamps has or have not been spoiled, the Collector shall repay to such person the value of such stamp or stamps in money calculated in accordance with the provisions of sub-section (2) of section 14 of the Indian Coinage Act, 1906 (3 of 1906), upon such person delivering up, within six months from the commencement of the Indian Stamp (Amendment) Act, 1958, such stamp or stamps to the Collector.]

77. Substituted by Act 19 of 1958, S. 8, for "one anna" (w.e.f. 1-10-1958).

78. Inserted by Act 19 of 1958, S. 9 (w.e.f. 1-10-1958).

<sup>79</sup>[**54-B. Allowances for Refugee Relief Stamps.**—Notwithstanding anything contained in section 54, when any person is possessed of stamps bearing the inscription "Refugee Relief" (being stamps issued in pursuance of section 3-A before its omission) and such stamps have not been spoiled, the Collector shall, upon such person delivering up, within six months from the commencement of the Refugee Relief Taxes (Abolition) Act, 1973 (13 of 1973), such stamps to the Collector, refund to such person the value of such stamps in money or give in lieu thereof other stamps of the same value:

Provided that the State Government may, with a view to facilitating expeditious disposal of claims for such refunds, specify, in such manner as it deems fit, any other procedure which may also be followed for claiming such refunds.]

**55. Allowance or renewal of certain debentures.**—When any duly stamped debenture is renewed by the issue of a new debenture in the same terms, the Collector shall, upon application made within one month, repay to the person issuing such debenture, the value of the stamp on the original or on the new debenture, whichever shall be less:

Provided that the original debenture is produced before the Collector and cancelled by him in such manner as the State Government may direct.

*Explanation.*—A debenture shall be deemed to be renewed in the same terms within the meaning of this section notwithstanding the following changes:—

- (a) the issue of two or more debentures in place of one original debenture, the total amount secured being the same;
- (b) the issue of one debenture in place of two or more original debentures, the total amount secured being the same;
- (c) the substitution of the name of the holder at the time of renewal for the name of the original holder; and
- (d) the alteration of the rate of interest or the dates of payment thereof.

## CHAPTER VI

### REFERENCE AND REVISION

**56. Control of, and statement of case to, Chief Controlling Revenue-authority.**—(1) The powers exercisable by a Collector under Chapter IV and Chapter V <sup>80</sup>[and under clause (a) of the first proviso to section 26] shall in all cases be subject to the control of the Chief Controlling Revenue-authority.

(2) If any Collector, acting under section 31, section 40 or section 41, feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the Chief Controlling Revenue-authority.

(3) Such authority shall consider the case and send a copy of its decision to the Collector, who shall proceed to assess and charge the duty (if any) in conformity with such decision.

**57. Statement of case by Chief Controlling Revenue-authority to High Court.**—(1) The Chief Controlling Revenue-authority may state any case referred to it under section 56, sub-section (2), or otherwise coming to its notice, and refer such case with its own opinion thereon,—

79. Inserted by Act 13 of 1973, S. 2 (w.e.f. 1-4-1973).

80. Inserted by Act 15 of 1904, S. 7.

<sup>81</sup>[(a) if it arises in a State, to the High Court for that State;

<sup>82</sup>[(b) if it arises in the Union territory of Delhi, to the High Court of Delhi;]

<sup>83</sup>[\* \* \*]

<sup>84</sup>[(c) if it arises in the Union territory of Arunachal Pradesh or Mizoram, to the Gauhati High Court (the High Court of Assam, Nagaland, Meghalaya, Manipur and Tripura);]

(d) if it arises in the Union territory of the Andaman and Nicobar Islands, to the High Court at Calcutta;<sup>85</sup>[\*]

(e) if it arises in the Union territory of <sup>86</sup>[Lakshadweep] Islands, to the High Court of Kerala;]

<sup>87</sup>[(ee) if it arises in the Union territory of Chandigarh, to the High Court of Punjab and Haryana;]

<sup>88</sup>[(f) if it arises in the Union territory of Dadra and Nagar Haveli, to the High Court of Bombay.]

(2) Every such case shall be decided by not less than three Judges of the High Court <sup>89</sup>[\* \* \*] to which it is referred, and in case of difference the opinion of the majority shall prevail.

**58. Power of High Court to call for further particulars as to case stated.**—If the High Court <sup>90</sup>[\* \* \*] is not satisfied that the statements contained in the case are sufficient to enable to determine the questions raised thereby, the Court may refer the case back to the Revenue-authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf.

**59. Procedure in disposing of case stated.**—(1) The High Court <sup>90</sup>[\* \* \*] upon the hearing of any such case, shall decide the questions raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded.

(2) The Court shall send to the Revenue-authority by which the case was stated, a copy of such judgment under the seal of the Court and the signature of the Registrar; and the Revenue-authority shall, on receiving such copy, dispose of the case conformably to such judgment.

**60. Statement of case by other Courts to High Court.**—(1) If any Court, other than a Court mentioned in section 57, feels doubt as to the amount of

81. Substituted by the Adaptation of Laws (No. 2) Order, 1956, for Cls. (a) to (g).

82. Substituted by the Punjab Reorganisation and Delhi High Court (Adaptation of Laws on Union Subjects) Order, 1968, S. 3 and Sch. I, for Cl. (b) (w.r.e.f. 1-11-1966).

83. Cl. (bb) omitted by the Himachal Pradesh (Adaptation of Laws on Union Subjects) Order, 1973, S. 3 and Sch. (w.r.e.f. 25-1-1971).

84. Substituted by the North-Eastern Areas (Reorganisation) (Adaptation of Laws on Union Subjects) Order, 1974, S. 3 and Sch., for Cl. (c) (w.r.e.f. 21-1-1972).

85. The word "and" omitted by Regulation 6 of 1963, S. 2 and Sch.

86. Substituted by L.M.A.I.A.G.N.A.L.O., 1974, S. 3 and Sch., for "Laccadive, Minicoy and Amindivi Islands" (w.r.e.f. 1-11-1973).

87. Inserted by the Punjab Reorganisation and Delhi High Court (Adaptation of Laws on Union Subjects) Order, 1968, S. 3 and Sch. (w.r.e.f. 1-11-1966).

88. Inserted by Regulation 6 of 1963, S. 2 and Sch.

89. The words "Chief Court or Judicial Commissioner's Court" omitted by A.O. 1950.

90. The words "Chief Court or Judicial Commissioner's Court" omitted by A.O. 1948.



duty to be paid in respect of any instrument under proviso (a) to section 35, the Judge may draw up a statement of the case and refer it, with his own opinion thereon, for the decision of the High Court<sup>91</sup>[\*\*\*] to which, if he were the Chief Controlling Revenue-authority, he would, under section 57, refer the same.

(2) Such Court shall deal with the case as if it had been referred under section 57, and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the Chief Controlling Revenue-authority and another like copy to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgment.

(3) References made under sub-section (1), when made by a Court subordinate to a District Court, shall be made through the District Court, and, when made by any subordinate Revenue Court, shall be made through the Court immediately superior.

**61. Revision of certain decisions of Courts regarding the sufficiency of stamps.**—(1) When any Court in the exercise of its civil or revenue jurisdiction or any criminal Court in any proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898\*, makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section 35, the Court to which appeals lie from, or references are made by, such first-mentioned Court may, of its own motion or on the application of the Collector, take such order into consideration.

(2) If such Court, after such consideration, is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 35, or without the payment of a higher duty and penalty than those paid, it may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is, to produce the same, and may impound the same when produced.

(3) When any declaration has been recorded under sub-section (2), the Court recording the same shall send a copy thereof to the Collector, and, where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument.

(4) The Collector may thereupon, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section 42, or in section 43, prosecute any person for any offence against the Stamp-law which the Collector considers him to have committed in respect of such instrument:

Provided that—

(a) no such prosecution shall be instituted where the amount (including duty and penalty) which, according to the determination of such Court, was payable in respect of the instrument under section 35, is paid to the Collector, unless he thinks that the offence was committed with an intention of evading payment of the proper duty;

(b) except for the purposes of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section 42.

\*Now see the Code of Criminal Procedure, 1973 (2 of 1974).

91. The words "Chief Court or Judicial Commissioner's Court" omitted by A.O. 1948.