

STAMP ACT, 1899

2 of 1899

[27th January, 1899]

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SCHEDULE 1 :- Stamp-Duty on Instruments

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:

CHAPTER 1 Preliminary

1. Short title, extent and commencement :-

(1) This Act may be called the Indian Stamp Act, 1899.

1(2) It extends to the whole of India except the State of Jammu and Kashmir:

Provided that it shall not apply to **2** [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.

1. Sub-sec. (2) first subs, by the Adaptation of Laws Order, 1950, then again subs, by Act 43 of 1955, w.e.f. 1.4.1956.

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

2. Definitions :-

In this Act, unless there is something repugnant in the subject or context,

(1) "banker" includes a bank and any person acting as a banker:

(2) "bill of exchange" means a bill of exchange as defined by the Negotiable Instruments Act, 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" 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" includes a "through bill of lading", but does not include a mates receipt:

(5) "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" 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 ¹[India] when such instrument was executed or, where several persons executed the instrument at different times, first executed:-

(7) "cheque" means a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand:

(8)²* * *

(9) "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 ³[the State Government] may, by notification in the Official Gazette, appoint in this behalf:

(10) "conveyance" includes a conveyance on sale and every instrument by which property, whether moveable or immoveable, is

transferred inter vivos and which is not otherwise specifically provided for by Schedule I ⁴[or by Schedule 1A, as the case may be]:

5Explanation. An instrument

(i) whereby a co-owner of a property having defined share therein transfers such share or part thereof to another co-owner of the property or divides such property among co-owners, or

(ii) whereby a partner transfers his share in the property of the partnership business to another partner or to other partners, whether separately or together with transfer of other business assets on retirement or dissolution, or whereby he contributes to the capital of the partnership firm by transferring his right and title to, or interest in, any property, is, for the purpose of this clause, an instrument by which property is transferred;

(11) "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 ⁶[India]:

(12) "executed" and "execution", used with reference to instruments, mean "signed" and "signature": ⁷* * * * *

(13) "impressed stamp" includes

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

(b) stamps embossed or engraved on stamped paper:

8(13A) "India" means the territory of India excluding the State of Jammu and Kashmir:

(14) "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" means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, ⁹[and includes

(i) a final order for effecting a partition passed by any revenue authority or any Civil Court;

(ii) an award by an arbitrator directing a partition; and

(iii) when any partition is effected without executing any such instrument, any instrument signed by the co-owners and recording, whether by way of declaration of such partition or otherwise, the terms of such partition amongst the co-owners;]

(16) "lease" means a lease of immoveable property and includes also

(a) a patta;

(b) a kabuliyat or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy or pay or deliver rent for, immoveable 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:

10(e) any agreement to lease.

(e) any agreement to lease,

10(f) mining licence;

12(16A) "marketable security" means a security or such a description as to be capable of being sold in any stock market in **13**[India] or in the United Kingdom:

14(16B) "market value" means, in relation to any property which is the subject-matter of an instrument, the price which such property would have fetched or would fetch if sold in open market on the date of execution of such instrument as determined in such manner and by such authority as may be prescribed by rules made under this Act or the consideration stated in the instrument, whichever is higher;

(17) "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" includes vellum, parchment or any other material on which an instrument may be written:

(19) "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: **15** ***

17(19A) "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"

(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:

(21) "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:

18(21A) "prescribed" means prescribed by rules made under section 75;

(22) "promissory note" means a promissory note as defined by the Negotiable Instruments Act, 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" 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 moveable 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:

19* * *

(24) "settlement" means any non-testamentary disposition, in writing, of moveable or immoveable 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 ²⁰[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]: ²¹** *

22(25) "Soldier" includes any person below the rank or non-commissioned officer who is enrolled under the Indian Army Act, 1911. **23** * * * *

1. Words "the Provinces" first subs, for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948, then the word "States" subs, for the word "Provinces" by the Adaptation of • Laws Order, 1950, and finally the word "India" subs, for the words "the States" by Act 43 of 1955, w.e.f. 1.4.1956.

2. Clause (8) om. by the Government of India (Adaptation of Indian Laws) Order, 1937.

3. Words "the Collecting Government" first subs, for the word "the Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, then the words "State Government" subs, for the words "Collecting Government" by the Adaptation of Laws Order, 1950.

4. Words and figures ins. by Ben. Act 3 of 1922.

5. Explanation ins. by W.B. Act 17 of 1990.

6. Words "the Provinces" first subs, for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948, then the word "States" subs, for the word "Provinces" by the Adaptation of Laws Order, 1950, and finally the word "India" subs, for the words "the States" by Act 43 of 1955, w.e.f. 1.4.1956.

7. Clause (12a) om. by the Adaptation of Laws Order. 1950.

8. Clause (ISA) ins. by Act 43 of 1955, w.e.f. 1.4.1956.

9. Words, figures and brackets subs, for the words "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:" by W.B. Act 17 of 1990.

10. Sub-clauses (e) and (f) ins. by W.B. Act 17 of 1990.

12. Clause (16A) ins. by Act 15 of 1904.

13. Words "the Provinces" first subs, for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948, then the word "States" subs, for the word "Provinces" by the Adaptation of Laws Order, 1950, and finally the word "India" subs, for the words "the States" by Act 43 of 1955, w.e.f. 1.4.1956.

14. Clause (16B) ins. by W.B. Act 17 of 1990.

15. Word "and" om. by Act 5 of 1906.

16. Sub-clause (c) om. by Act 5 of 1906.

17. Clause (19A) ins. by Act 43 of 1955, w.e.f. 1.4.1956.

18. Clause (21A) ins. by W.B. Act 17 of 1998.

19. Word "and" om. by Act 18 of 1928.

20. Words ins. by Act 15 of 1904.

21. Word "and" first ins. by Act 18 of 1928. then om. by the Adaptation of Laws Order, 1950.

22. Clause (25) ins. by Act 18 of 1928.

23. Clause (26) first ins. by the Adaptation of Laws Order, 1950, then om. by Act 43 of 1955, w.e.f. 1.4.1956.

CHAPTER 2 Stamp-duties

3. Instruments chargeable with duty :-

Subject to the provisions of this Act and the exemptions contained in Schedule 1, 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

(a) every instrument mentioned in that Schedule which, not having been previously executed by any person, is executed in ¹[India] on or after the first day of July, 1899;

(b) every bill of exchange ²[payable otherwise than on demand] 27* * * or promissory note drawn or made out of ³[India] on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated, in ³[India]; and

(c) every instrument (other than a bill of exchange, 27* * * or promissory note) mentioned in that Schedule, which not having been previously executed by any person, is executed out of ³[India] on or after that day, relates to any property situate, or to any matter or thing done or to be done in ³[India] and is received in ³[India]:

8 Provided that, except as aforesaid expressly provided in this Act, and notwithstanding anything contained in clauses (a), (b), or (c) of this section or in Schedule I, the amount indicated in Schedule IA to this Act shall, subject to the exemptions contained in that Schedule, be the duty chargeable under this Act on the following instruments, mentioned in clauses (aa) and (bb) of this proviso, as the proper duty therefor respectively,

(aa) every instrument, mentioned in Schedule IA as chargeable with duty under that Schedule, which, not having been previously executed by any person, is executed in ⁹[West Bengal] on or after the first day of April, 1922; and

(bb) every instrument mentioned in Schedule IA as chargeable with duty under that Schedule, which, not having been previously executed by any person, is executed out of ⁵[West Bengal] on or after the first day of April, 1922, and relates to any property situated, or to any matter or thing done or to be done, in ⁵[West Bengal] and is received in ⁵[West Bengal]:

Provided **13**[also] that no duty shall be chargeable in respect of

(1) any instrument executed by or on behalf of or in favour of

(1) any instrument executed by, or on behalf of, or in favour of, the ¹⁴[Government] in cases where, but for this exemption, the ⁷[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

1. Words "the Provinces" first subs, for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948. then the word "States" subs, for the word "Provinces" by the Adaptation of Laws Order. 1950, and finally the word "India" subs, for the words "the States" by Act 43 of 1955. w.e.f. 1.4.1956.

2. Words ins. by Act 5 of 1927.

3. Words "the Provinces" first subs, for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948, then the word "States" subs, for the word "Provinces" by the Adaptation of Laws Order, 1950, and finally the word "India" subs, for the words "the States" by Act 43 of 1955, w.e.f. 1.4.1956.

8. Proviso ins. by Ben. Act 3 of 1922.

9. Words subs, for the word "Bengal" by the Indian (Adaptation of Existing Indian Laws) Order, 1947.

13. Word ins. by Ben. Act 3 of 1922.

14. Word "Crown" first subs, for the word "Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, then the word "Government" subs, for the word "Crown" by the Adaptation of Laws Order, 1950.

3A. :-

1 * *

1. Sec. 3A first ins. by Act 44 of 1971, w.e.f. 15.11.1971, then om. by Act 13 of 1973, w.e.f. 1.4.1973, which was as under: "3A. Instruments chargeable with additional duty. (1) Every instrument chargeable with duty under section 3 read with Article No. 13, 14,

27, 37, 47, 49, 52, 53 or 62(a) of Schedule I shall, in addition to such -duty, be chargeable with a duty of ten paise. (2) The additional duty, with which any instrument is chargeable under sub-section (1) shall be paid and such payment shall be indicated on such instrument by means of adhesive stamps bearing the inscription "refugee relief whether with or without any other design, picture or inscription. (3) Except as otherwise provided in sub-section (2), the provisions of this Act shall, so far as may be, apply in relation to the additional duties chargeable under sub-section (1) in respect of the instruments referred to therein as they apply in relation to the duties chargeable under section 3 in respect of those instruments."

3AA. . :-

1 * *****

1. Sec. 3AA first ins. by W.B. Act 8 of 1973, then om. by W.B. Act 15 of 1987, which was as under: 3AA. Instruments chargeable with additional duty. (1) Every instrument chargeable with duty under the first proviso to section 3, read with Schedule IA, shall, in addition to such duty, be chargeable with a duty of ten paise. (2) The additional duty with which any instrument is chargeable under sub-section (1) shall be paid and such payment shall be indicated on such instrument by means of an additional stamp of 10 paise denomination bearing the inscription "surcharge", whether with or without any other design, picture or inscription. (3) Except as otherwise provided in sub-section (2), the provisions of this Act shall, so far as may be, apply in relation to the additional duties chargeable under sub-section (1) in respect of the instruments referred to therein as they apply in relation to the duty chargeable under the first proviso to section 3 in respect of those instruments..

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 ¹[or in Schedule IA, as the case may be] for the conveyance, mortgage or settlement, and each of the other instruments shall be chargeable with a duty of one rupee ²[if the principal instrument be chargeable with the duty prescribed in Schedule I, or with a duty of ³ (two rupees), if the principal instrument be chargeable with the duty

(2) The parties may determine for themselves which of the instruments 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.

1. Words and letters ins. by Ben. Act 3 of 1922.
2. Words and letters subs, for the words "instead of the duty (if any) prescribed for it in that Schedule" by Ben. Act 3 of 1922.
3. Words "one rupee eight annas" first subs, for the words "one rupee" by Ben. Act 3 of 1922, then the words "two rupees" subs, for the words "one rupee eight annas" by Ben. Act 12 of 1935.

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 coining within several descriptions in Schedule I or in Schedule IA :-

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 ¹[or in Schedule IA, as the case may be,] shall, where the 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 ²[two rupees] a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid ³ [unless it falls within the provisions of section 6A],

1. Words and letters ins. by Ben. Act 3 of 1922.

2. Words "one rupee eight annas" first subs, for the words "one rupee" by Ben. Act 3 of 1922, then the words "two rupees" subs, for the words "one rupee eight annas" by Ben. Act 12 of 1935.

3. Words, figure and letter ins. by Ben. Act 3 of 1922.

6A. Payment of West Bengal Stamp duty on copies, counterparts or duplicates when that duty has not been paid on the principal or original instrument :-

1

(1) Notwithstanding anything contained in sections 4 or 6 or in any other law unless it is proved that the duty chargeable under the Bengal Stamp (Amendment) Act, 1922,²[or the Indian Stamp (Bengal Amendment) Act, 1935] has been paid

(a) on the principal or original instrument as the case may be, or

(b) in accordance with the provisions of this section, the duty chargeable on an instrument of sale, mortgage or settlement other than a principal instrument or on a counterpart, duplicate or copy of any instrument shall, if the principal or original instrument would, when received in³[West Bengal], have been chargeable under the Bengal Stamp (Amendment) Act, 1922² [or the Indian Stamp (Bengal Amendment) Act, 1935] with a higher rate of duty, be the duty with which the principal or original instrument would have been chargeable under section 19A.

(2) Notwithstanding anything contained in any law, no instrument,

Provided that a Court before which any such instrument, counterpart, duplicate, or copy is produced, may, in its discretion, permit the duty chargeable under this section to be paid thereon, and may then receive it in evidence.

1. Sec, 6A ins. by Ben. Act 3 of 1922.

2. Words, figures and brackets ins. by Ben. Act 12 of 1935.

3. Words subs, for the word "Bengal" by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

7. Policies of sea-insurance :-

(1)¹* * * * *

(2)¹* * * * *

(3)¹ * * * * *

(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.

1. Sub-sees. (1). (2) and (3) rep. by Act 11 of 1963, which were as under: "(1) No contract for sea-insurance (other than such insurance as is referred to in section 506 of the Merchant Shipping Act, 1894), shall be valid unless the same is expressed in a sea-policy. (2) No sea-policy made for time shall be made for any time exceeding twelve months. (3) No sea-policy shall be valid unless it specifies the particular risk or adventure, or the time, for which it is made, the names of the subscribers or underwriters, and the amount or amounts insured."

8. Bonds, debentures or other securities issued on loans under Act 11, 1879 :-

(1) Notwithstanding anything in this Act, any local authority raising a loan under the provisions of the Local Authorities Loan Act, 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 ¹[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 ² [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.

1. Words subs, for the words "eight annas per centum" by Act 6 of 1910.

2. Words subs, for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

8A. Securities dealt in depository not liable to stamp duty :-

¹ 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, 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, dealt with by a depository, shall not be liable to duty under this Act or any other law for the time being in force.

Explanation 1. For the purposes of this section, the expressions "beneficial ownership", "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.

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.

1. Sec. 8A first ins. by Act 22 of 1996, then subs, by Act 10 of 2000. Previous sec. 8A was as under: 8A. Securities not liable to stamp duty. Notwithstanding anything contained in this Act, (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, on such certificate duty shall be payable as is payable on the issue of duplicate certificate under this Act; (c) transfer of registered ownership of shares from a person to a depository or from a

depository to a beneficial owner shall not be liable to any stamp duty; (d) transfer of beneficial ownership of shares, such shares being shares of a company dealt with by a depository shall not be liable to duty under article 62 of Schedule I of this Act. Explanation. 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..

9. Power to reduce, remit or compound duties :-

1

(1) **2**[The **3** * 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 **4**[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 in the case of issues by any incorporated company or other body corporate **5**[or of transfers (where there is a single transferee, whether incorporated or not)] of debentures, bonds or other marketable securities.

6 (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 Seventh Schedule to the Constitution, the Central Government;

(b) save as aforesaid, the State Government.

1. Sec. 9 renumbered as sub-sec. (1) of that sec. by the Adaptation of Laws Order, 1950.

2. Words "The Collecting Government" subs, for the words "The Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

3. Word "Collecting" om. by the Adaptation of Laws Order, 1950.

4. Words subs, for the words "British India" by the Government of India (Adaptation of Indian Laws) Order, 1937.

5. Words and brackets ins. by Act 32 of 1994.

6. Sub-sec. (2) ins. by the Adaptation of Laws Order, 1950.

10. Duties how to be paid :-

(1) Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable

(a) according to the provisions herein contained; or

(b) when no such provision is applicable thereto as the ¹[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 ² * * the

size of the paper on which they are written.

1. Words "collecting Government" first subs, for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937, then the words "State Government" subs, for the words "collecting Government" by the Adaptation of Laws Order, 1950.

2. Words "written in any Oriental language" om. by Act 43 of 1955, w.e.i. 1.4.1956.

11. Use of adhesive stamps :-

The following instruments may be stamped with adhesive stamps, namely:

(a) instruments chargeable ¹[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, ²* * * and promissory notes drawn or made out of ³ [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.

1. Words subs, for the words "with the duty of one anna or half an anna" by Act 19 of 1958.

2. Word "cheques" om. by Act 5 of 1927.

3. Words "the Provinces" first subs, for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948. then the word "States" subs, for the word "Provinces" by the Adaptation of Laws Order, 1950, and finally the

word "India" subs, for the words "the states" by Act 43 of 1955, w.e.f. 1.4.1956.

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

(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.

(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 ¹ [State Government] may by rule prescribe.

1. Words "collecting Government" first subs, for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937, then the words "State Government" subs, for the words "collecting Government" by the Adaptation of Laws Order, 1950.

17. Instruments executed in India :-

All instruments chargeable with duty and executed by any person in ¹ [India] shall be stamped before or at the time of execution.

1. Words "the Provinces" first subs, for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948, then the word "States" subs, for the word "Provinces" by the Adaptation of Laws Order, 1950, and finally the

word "India" subs, for the words "the States" by Act 43 of 1955, w.e.f. 1.4.1956.

18. Instruments other than bills and notes executed out of India :-

(1) Every instrument chargeable with duty executed only out of ¹[India], and not being a bill of exchange, ²* * * or promissory note, may be stamped within three months after it has been first received in ¹[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 ⁴ [State Government] may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

1. Words "the Provinces" first subs, for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order. 1948. then the word "States" subs, for the word "Provinces" by the Adaptation of Laws Order, 1950 and finally the word "India" subs, for the words "the States" by Act 43 of 1955. w.e.f. 1.4.1956.

2. Word "cheque" om. by Act 5 of 1927.

4. Words "collecting Government" first subs, for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order 1937, then the words "State Government" subs, for the words "collective Government" by the Adaptation of Laws Order, 1950.

19. Bills and notes drawn out of India :-

The first holder in ¹[India] of any bill of exchange ²[payable otherwise than on demand], ³* * * or promissory note drawn or made out of ¹[India] shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in ¹[India], affix thereto the proper stamp and

cancel the same:

Provided that

(a) if, at the time any such bill of exchange ³* * * or note comes into the hands of any holder thereof in ¹ [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.

1. Words "the Provinces" first subs, for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order. 1948. then the word "States" subs, for the word "Provinces" by the Adaptation of Laws Order, 1950 and finally the word "India" subs, for the words "the States" by Act 43 of 1955. w.e.f. 1.4.1956.

2. Words ins. by Act 5 of 1927.

3. Word "cheque" om. by Act 5 of 1927.

19A. Payment of duty on certain instruments liable to increased duty in West Bengal under clause (bb) of section 3 :-

¹Where any instrument has become chargeable in any part of ²[India] other than ³[West Bengal] with duty under this Act or under any other law for the time being in force in any part of ²[India] and thereafter becomes chargeable with a higher rate of duty in ³[West Bengal] under clause (bb) of the first proviso to section 3

(i) notwithstanding anything contained in the first proviso to section 3, the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule IA less the amount

of duty, if any, already paid on it in ⁶[West Bengal],

(ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the same time and by the same persons as though such instrument were an instrument received in ⁷ [India] for the first time at the time when it became chargeable with the higher duty.

1. Sec 19A ins by Ben. Act 3 of 1922.

2. Words "the Provinces" first subs, for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948. then the word "States" subs, for the word "Provinces" by the Adaptation of Laws Order, 1950 and finally the word "India" subs, for the words "the States" by Act 43 of 1955. w.e.f. 1.4.1956.

3. Words subs, for the word "Bengal" by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

6. Words subs, for the word "Bengal" by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

7. Words "the Provinces" first subs, for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948, then the word "States" subs, for the word "Provinces" by the Adaptation of Laws Order, 1950 and finally the word "India" subs, for the words "the States" by Act 43 of 1955, w.e.f. 1.4.1956.

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 ¹[India], such duty shall be calculated on the value of such money in the currency of ¹[India] according to the current rate of exchange on the day of the date of the instrument.

(2) The ³[Central Government] may, from time to time, by notification in the ⁴[Official Gazette], prescribe a rate of exchange

for the conversion of British or any foreign currency into the currency of ¹ [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).

1. Words "the Provinces" first subs, for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948, then the word "States" subs, for the word "Provinces" by the Adaptation of Laws Order, 1950 and finally the word "India" subs, for the words "the States" by Act 43 of 1955, w.e.f. 1.4.1956.

3. Words subs, for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

4. Words subs, for the words "Gazette of India" by the Government of India (Adaptation of Indian Laws) Order, 1937.

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 with which it would have been chargeable had no mention of interest been made therein.

23A. Certain instruments connected with mortgages or marketable securities to be chargeable as agreements :-

1

(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, it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under ² [Article No. 5(c)] of Schedule I.

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

1. Sec. 23A ins. by Act 15 of 1904.

2. Words, figure, letter and brackets subs, for the words, figure, letter and brackets "Article No. 5(b)" by Act 1 of 1912.

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 in 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.

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:

¹ Provided that, in the case of the lease of a mine in which royalty on 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 ²[the Government], at such amount or value as the Collector may, having regard to all the circumstances of the case, have estimated ³ [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.

1. Proviso subs, by Act 15 of 1904, which was earlier as under: "Provided that in the case of the lease of a mine in which a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such share, for the purpose of stamp-duty, at twenty thousand rupees a year, and the whole amount of such share, whatever it may be, shall be claimable under such lease."

2. Words "the Crown" first subs, for the words "the Secretary of State in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937, then the word "Government" subs, for the word "Crown" by the Adaptation of Laws Order, 1950.

3. Words "the Crown" first subs, for the words "the said Secretary of State in Council" by the Government of India (Adaptation of Indian Laws) Order. 1937, then the word "Government" subs, for the word "Crown" by the Adaptation of Laws Order, 1950.

27. Facts affecting duty to be set forth in instrument :-

(1) The market value of, and the consideration (if any) for, any property 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.

(2) In the case of instruments relating to immovable property chargeable with an ad valorem duty on the market value of the property, and not on the consideration set forth therein, the instrument shall fully and truly set forth the annual land revenue in the case of revenue paying land, the annual rental or gross assets, if any, in the case of other immovable property, the local rates, municipal or other taxes, if any, to which such property may be subject, and any other particulars which may be prescribed by rules made under this Act.

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 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 a 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 [two rupees].

(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.

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), [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), 73. Words subs, for the words "one rupee" by Ben. Act 12 of 1935. 74. Words, figure and brackets subs, for the word, figure and brackets "No. 6 (Agreement to mortgage)" by Act 15 of 1904. 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), 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;

1(b) in the case of a policy of insurance other than fire-insurance

by the person effecting the insurance;

1(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 re-conveyance 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 or the property to which such certificate relates;

(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;

3 (h) in the case of any instrument not specified in clauses (a) to (g) by the person drawing, making or executing such instrument,

1. Clauses (b) and (bb) subs, for clause (b) by Act 5 of 1906, which was earlier as under: "(b) in the case of policy of insurance by the person effecting the insurance:"

3. Clause (h) ins. by W.B. Act 17 of 1990.

29A. Application of sections 23A, 24 and 29 to instrument charge- able with duty under Schedule IA :-

¹In applying sections 23A, 24 or 29 to any instrument chargeable with a higher rate of duty under the Bengal Stamp (Amendment) Act, 1922, ² [or the Indian Stamp (Bengal Amendment) Act, 1935], the references in those sections to the several articles in Schedule I shall be deemed to be references to the corresponding articles in Schedule IA.

1. Sec. 29A ins. by Ben. Act 3 of 1922.

2. Words, figures and brackets ins. by Ben. Act 12 of 1935.

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 moveable 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. ¹ [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.]

1. Paragraph ins. by Act 5 of 1906.

CHAPTER 3 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 amount (not exceeding five rupees and not less than ¹ [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.

1. Words subs, for the words "eight annas" by Act 19 of 1958.

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 ¹[other than an instrument chargeable with a duty under clause (bb) of the first proviso to section 3] executed or first executed in ²[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 ²[India] and brought to him after the expiration of three months after it has been first received in ²[India] ⁵* * *;

(c) any instrument chargeable ⁶[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; ⁷ [or

(d) any instrument chargeable with duty under clause (bb) of the first proviso to section 3 and brought to him after the expiration of three months of the date on which it is first received in ""(West Bengal)].

1. Words ins. by Ben. Act 3 of 1922.

2. Words "the Provinces" first subs, for the words "British India" by

the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948. then the word "States" subs, for the word "Provinces" by the Adaptation of Laws Order, 1950, and finally the word "India" subs, for the words "the States" by Act 43 of 1955, w.e.f. 1.4.1956.

5. Word "or" om. by Ben. Act 3 of 1922.

6. Words subs, for the words "with the duty of one anna or half an anna" by Act 19 of 1958.

7. Word "or" and clause (d) ins. by Ben. Act 3 of 1922.

CHAPTER 4 Instruments not duly stamped

33. Examination and impounding of instruments :-

(1)

1(a) 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(b) Notwithstanding anything contained in section 31, but without prejudice to the provisions of clause (a) of this sub-section, the Collector, before whom any instrument is brought under section 31 for determining the duty with which the instrument is chargeable, shall, if it appears to him that such instrument is not duly stamped, impound the same:

Provided that nothing contained in this clause shall be deemed to authorise the Collector to impound any instrument which has not been executed but is brought to him under section 31 for determining the duty with which the instrument is chargeable or any instrument which he is authorised to endorse under section 32.

(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 ³[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 of Chapter XXXVI of the Code of Criminal Procedure, 1898;

(b) in the case of 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 the section, in cases of doubt,

(a) the ⁴[State Government] may determine what offices shall be deemed to be public offices; and

(b) the ⁵[State Government] may determine who shall be deemed to be persons in charge of public offices.

⁶(4) Where deficiency in stamp duty is noticed from the copy of any instrument, the Collector may, suo motu or on a reference from any Court or from the Commissioners of Divisions or from any officer authorised by the Board of Revenue in that behalf, call for the original instrument for the purpose of satisfying himself as to the adequacy of the duty paid thereon, and the instrument so produced before the Collector shall be deemed to have been produced or come before him in the performance of his functions.

6 (5) In case the instrument is not produced within the period specified by the Collector, he may require payment of deficit stamp duty, if any, together with penalty under section 40 on the copy of the instrument:

Provided that no action under this sub-section shall be taken after a period of four years from the date of execution of the instrument.

1. Sub-sec. (1) renumbered as clause (a) of that sub-sec, by W.B. Act 17 of 1990.

2. Clause (b) ins. by W.B. Act 17 of 1990.

3. Words "the Provinces" first subs, for the words "British India" by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948, then the word "States" subs, for the word "Provinces" by the Adaptation of Laws Order, 1950, and finally the word "India" subs, for the words "the States" by Act 43 of 1955, w.e.f. 1.4.1956.

4. Words "collecting Government" first subs, for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937, then the words "State Government" subs, for the words "collecting Government" by the Adaptation of Laws Order, 1950.

5. Words "collecting Government" first subs, for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937, then the words "State Government" subs, for the words "collecting Government" by the Adaptation of Laws Order, 1950.

6. Sub-sees. (4) and (5) ins. by W.B. Act 17 of 1990.

34. Special provision as to unstamped receipts :-

Where any receipt chargeable ¹ [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.

1. Words subs, for the words "with a duty of one anna" by Act 19 of 1958.

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:

Provided that

(a) any such instrument not being an instrument chargeable ¹[with a duty not exceeding ten naye paise] only, or a bill of exchange or promissory note, shall, subject to all just exceptions, 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, 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 ChapterXXXVI 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 ² [the Government], or where it bears the certificate of the Collector as provided by section 32 or any other provision of this Act.

1. Words subs, for the words "with a duty of one anna or half an anna" by Act 19 of 1958.

2. Words "the Crown" first subs, for the words "the Government" by Government of India (Adaptation of Indian Laws) Order, 1937, then the word "Government" subs, for the word "Crown" by the Adaptation of Laws Order, 1950.

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 :-

The ¹ [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.

1. Words "collecting Government" first subs, for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937, then the words "State Government" subs, for the words "collecting Government" by the Adaptation of Laws Order, 1950.

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.

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

39. Collectors 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, ¹ * * *

(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.

1. Words "upon application made to him in this behalf or, if no application is made, with the consent of the Chief Controlling Revenue-authority" om. by Act 4 of 1914.

40. Collectors 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 ¹[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 five rupees; or, if he thinks fit, ² [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 matters 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.

1. Words subs, for the words "with a duty of one anna or half an anna" by Act 19 of 1958.

2. Words ins. by Act 15 of 1904.

41. Instruments unduly stamped by accident :-

If any instrument chargeable with duty and not duly stamped, not being an instrument chargeable ¹ [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 to 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 proceeding under sections 33 and 40, receive such amount and proceed as next hereinafter prescribed.

1. Words subs, for the words "with a duty of one anna or half an anna" by Act 19 of 1958.

42. Endorsement of instruments on which duty has been paid under sections 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 and 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, section 144, clause 3.

43. Prosecution for offence against Stamp-law :-

The taking of proceedings or the payment of a penalty under this

Chapter in respect of any instrument shall not bar the prosecution of any person : .410 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.

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, subsection (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 ¹[or promissory note] chargeable ²[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 ³[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 ³[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, ³[or note].

1. Words subs, for the words "promissory note or cheque" by Act 5 of 1927.

2. Words subs, for the words "with the duty of one anna" by Act 19 of 1958.

3. Words subs, for the words "note or cheque" by Act 5 of 1927.

47A. Instruments of conveyance, etc., undervalued, how to be dealt with :-

1

(1) Where the registering officer appointed under the Registration Act. 1908, has, while registering any instrument of

(a) agreement or memorandum of an agreement relating to a sale or lease-cum-sale of immovable property.

(b) conveyance,

(c) exchange of property,

(d) gift,

(e) partition,

(f) power-of-attorney

(i) when given for consideration to sell any immovable property, or

(ii) in such other cases referred to in article 48 of Schedule IA, where proper stamp duty is payable on the basis of market value,

(g) settlement,

(h) transfer of lease by way of assignment, reason to believe that the market value of the property which is the subject-matter of any such instrument has not been truly set forth in the instrument presented for registration, he may, after receiving such instrument, ascertain the market value of the property which is the subject-matter of such instrument in the manner prescribed and compute the proper stamp duty chargeable on the market value so ascertained and thereafter he shall, notwithstanding anything to the contrary contained in the Registration Act, 1908, in so far as it relates to registration, keep registration of such instrument in abeyance till the condition referred to in sub-section (2) or sub-section (7), as the case may be, is fulfilled by the concerned person.

(2) Where the market value of the property which is the subject-matter of an instrument has been ascertained and the proper duty chargeable thereon has been computed under sub-section (1), the registering officer shall, in the manner prescribed, send to the concerned person a notice calling upon him to make payment of the deficit amount of stamp duty within such time as may be prescribed, and if such person makes payment of such deficit amount of stamp duty in the prescribed manner, the registering officer shall register the instrument.

(3) Where the concerned person does not make payment of the stamp duty as required under sub-section (2) within the time specified in the notice issued under that sub-section, the registering authority shall refer the matter to such authority and in such manner as may be prescribed for determination of the market value of the property which is the subject-matter of such instrument and the proper stamp duty payable thereon:

Provided that if the concerned person, before receipt of any

communication from such authority intimating him the market value of the property which is the subject-matter of the instrument and the proper stamp duty payable thereon determined by such authority, makes payment of the deficit amount of stamp duty as ascertained by the registering officer, such registering officer shall accept such payment, register the instrument and intimate the matter to such authority in the manner prescribed:

(4) After the registering officer issues a notice under sub-section (2) in respect of any instrument referred to in clause (b), clause (c), clause (d), clause (e), or clause (e), or clause (g) of sub-section (1), which has been presented before him for registration prior to the coming into force of the Indian Stamp (West Bengal Amendment) Act, 1998, and if the concerned person makes payment of the deficit amount of stamp duty within the time specified in such notice, he shall register such instrument.

Provided that where such instrument has been so registered under this sub-section, any reference that has been made to the authority referred to in sub-section (3) in respect of determination of the market value of the property which is the subject-matter of the instrument shall be deemed to have been withdrawn and the registering officer shall intimate the matter to such authority in such manner as may be prescribed.

(5) On receipt of a reference under sub-section (3), the authority specified under that sub-section shall, after giving the parties concerned in respect of the instrument referred to in sub-section (1) a reasonable opportunity of being heard and after holding an enquiry in such manner as may be prescribed, determine the market value of the property which is the subject-matter of the instrument and the proper stamp duty payable thereon, and shall thereafter issue a notice in the manner prescribed directing the concerned person to make payment of such deficit amount of stamp duty within such time as may be prescribed.

(6) Where the concerned person does not make payment of the deficit amount of stamp duty within the time specified in the notice issued under sub-section (5), such person shall be liable to pay an

interest at the rate of two per centum for each British Calendar month of default from the first day of such month following the month in which such person was required to make payment of such deficit amount of stamp duty under sub-section (5) up to the month preceding the month of full payment of such duty.

(7) Where the concerned person makes payment, in the manner prescribed, of the deficit amount of stamp duty determined under sub-section (5) together with the interest, if any, charged under sub-section (6), the registering officer shall, upon furnishing by the concerned person a copy of receipted challan or bank draft in proof of such payment, register the instrument within such time as may be prescribed.

(8)

(a) The authority referred to in sub-section (3) may, on receipt of any information or otherwise, suo motu within five years from the date of registration of any instrument, where such instrument was registered on the basis of the market value which was set forth in the instrument or which was ascertained by the registering officer referred to in sub-section (1), call for and examine any such instrument and any other document relating thereto for the purpose of satisfying himself as to the correctness of the market value of the property which is the subject-matter of such instrument and which was set forth in the instrument or which was ascertained under sub-section (2) and the stamp duty payable thereon.

(b) If, after such examination, the authority referred to in clause (a) has reasons to believe that the market value of the property which is the subject-matter of such instrument has not been truly set forth in the instrument or correctly ascertained under sub-section (2), he may, after giving the parties concerned in the instrument a reasonable opportunity of being heard, determine the market value of the property which is the subject-matter of such instrument and the amount of stamp duty chargeable thereon in the manner referred to in sub-section (5), and the difference in the amount of stamp duty, if any, between the stamp duty so

determined by him and the stamp duty already paid by the concerned person shall be required to be paid by him in the prescribed manner.

Provided that nothing in this sub-section shall apply to

(a) any instrument referred to in clause (b), clause (c), clause (d), clause (e), or clause (g), of sub-section (1) registered before the 31st day of January, 1994, or

(b) any instrument referred to in clause (a), clause (f), or clause (h), of sub-section (1) registered before the coming into force of the Indian Stamp (West Bengal Amendment) Act, 1998.

(9) Notwithstanding anything contained elsewhere in this section or section 47B, no interest shall be payable in such cases, under such circumstances, and subject to such conditions, if any, as may be prescribed.

Explanation. For the purposes of this section, section 47B and section 47C, "concerned person" shall mean the person who is liable to bear the stamp duty under section 29.

1. Sec. 47A first ins. by W.B. Act 17 of 1990, then sees. 47A to 47C subs. for previous sec. 47A by W.B. Act 17 of 1998. Earlier sec. 47A was as under: "47A. Instruments of conveyance, etc., undervalued, how to be dealt with. (1) Where the registering officer appointed under the Registration Act, 1908, has, while registering any instrument of conveyance, exchange, gift, partition or settlement, reason to believe that the market value of the [Foot-note 5 continued at page 389)

47B. Appeal :-

(1) Any concerned person aggrieved by an order passed under sub-section (5), or sub-section (8), of section 47A determining the

market value may, in the prescribed manner, prefer an appeal to such appellate authority as may be prescribed within sixty days from the date of receipt of such order or such further period as may be allowed by the said authority for cause shown to his satisfaction.

(2) Subject to such rules or procedure as may be prescribed, the appellate authority shall dispose of any appeal preferred before him under subsection (1) in the prescribed manner.

(3) Where the appellate authority modifies the amount of stamp duty determined under sub-section (5), or sub-section (8), of section 47A and modified amount of such stamp duty is higher than the stamp duty already paid by the concerned person, he shall pay interest at the rate specified in sub-section (6) of section 47A on the modified amount of such stamp duty from the month in which he was liable to pay interest under sub-section (6) up to the month preceding the month of payment of such modified amount of stamp duty.

47C. Suo motu revision by the Chief Controlling Revenue Authority :-

(1) Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Chief Controlling Revenue Authority may, on his own motion, pass an order revising any order passed by any authority under section 47A or section 47B.

(2) No order under sub-section (1), which is likely to affect the person concerned adversely, shall be passed without giving such person a reasonable opportunity of being heard.

(3) Any order passed by the Chief Controlling Revenue Authority under sub-section (1) shall be final and shall not be called in question in any Civil Court or before any other authority.

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 moveable 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.

48A. Validity of certificate or endorsement in respect of instruments for which higher rate of duty is payable in West Bengal :-

Notwithstanding anything contained in this Act, no certificate or endorsement under this Act in respect of an instrument chargeable in [West Bengal] with a higher rate of duty under the Bengal Stamp (Amendment) Act, 1922, [or the Indian Stamp (Bengal Amendment) Act, 1935], shall be received in evidence or be in any way valid in respect of the payment of duty on such instrument or in respect of the chargeability of such instrument with duty, unless the duty chargeable under the Bengal Stamp (Amendment) Act, 1922, [or the Indian Stamp (Bengal Amendment) Act, 1935], has been paid on such instrument.

CHAPTER 5 Allowances for Stamps in certain cases

49. Allowance for spoiled stamps :-

Subject to such rules as may be made by [the 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 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 payable otherwise than on

(c) in the case of bills of exchange [payable otherwise than on demand] * * or promissory notes

(1) the stamp on [any such bill of exchange] * * * 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 * * * 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 [any such bill of exchange] * * * 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 * * * 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 17* * * or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill * * * 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;

(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 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 [India], the application may be made within six months after it has been received back in [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 [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 [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 [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 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 [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 [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 Collectors 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.

54A. 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, 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.

54B. 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 3A 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, 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 on 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 6 Reference and Revision

56. Control of, and statement of case to, Chief Controlling Revenue-authority :-

(1) The powers exercisable by a Collector under [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,

(a) if it arises in a State, to the High Court for that State;

(b) if it arises in the Union territory of Delhi or Himachal Pradesh, to the High Court of Punjab;

(c) if it arises in the Union territory of Manipur or Tripura, to the High Court of Assam;

(d) if it arises in the Union territory of the Andaman and Nicobar Islands, to the High Court at Calcutta; and

(e) if it arises in the Union territory of the Laccadive, Minicoy and Amindivi Islands, to the High Court of Kerala.

(2) Every such case shall be decided by not less than three Judges of the High Court, * * * 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 * * * is not satisfied that the statements contained in the case are sufficient to enable it 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 * * * 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 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 * * * 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 other admitting any instrument in evidence, or of any certificate granted

under section 42.

CHAPTER 7 Criminal Offences and Procedure

62. Penalty for executing, etc., instrument not duly stamped :-

(1) Any person

(a) drawing, making, issuing, endorsing or transferring, or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying or receiving payment of, or in any manner negotiating, any bill of change [payable otherwise than on demand], * * * or promissory note without the same duly stamped; or

(b) executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped; or

(c) voting or attempting to vote under any proxy not duly stamped; shall for every such offence be punishable with fine which may extend to five hundred rupees:

Provided that, when any penalty has been paid in respect of any instrument under section 35, section 40 or section 61, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

(2) If a share-warrant is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the company, shall be punishable with fine which may extend to five hundred rupees.

63. Penalty for failure to cancel adhesive stamp :-

Any person required by section 12 to cancel an adhesive stamp, and failing to cancel such stamp in manner prescribed by the that section, shall be punishable with fine which may extend to one hundred rupees.

64. Penalty for omission to comply with provisions of section 27 :-

Any person who, with intent to defraud the Government,

(a) executes any instrument in which all the facts and circumstances required by section 27 to be set forth in such instrument are not fully and truly set forth; or

(b) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances; or

(c) does any other act calculated to deprive the Government of any duty or penalty under this Act; shall be punishable with fine which may extend to five thousand rupees.

64A. Recovery of amount of deficit stamp duty :-

(1) Where any person liable to pay duty under this Act is convicted of an offence under section 64 in respect of any instrument (not being an instrument specified in Entry 91 of List I in the Seventh Schedule to the Constitution of India), the Magistrate shall, in addition to the punishment which may be imposed for such offence, recover summarily and pay over to the Collector the amount of duty, if any, due under this Act from such person in respect of that instrument and the Collector shall thereupon certify by endorsement on the instrument that proper duty has been levied in respect thereof:

Provided that if the person referred to in this sub-section has already paid any amount towards the duty payable under this Act in respect of the instrument in relation to which such person was convicted, the Magistrate shall recover only the difference in the amount of duty.

(2) The amount recoverable under sub-section (1) shall be recovered by the Magistrate, as if it were a fine imposed under the Code of Criminal Procedure, 1973.

65. Penalty for refusal to give receipt, and for devices to evade duty on receipts :-

Any person who

(a) being required under section 30 to give a receipt, refuses or neglects to give the same; or,

(b) with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding twenty rupees in amount or value, gives a receipt for an amount or value not exceeding twenty rupees, or separates or divides the money or property paid or delivered; shall be punishable with fine which may extend to one hundred rupees.

66. Penalty for not making out policy, or making one not duly stamped :-

Any person who

(a) receives, or takes credit for, any premium or consideration for any contract of insurance and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly stamped policy of such insurance; or

(b) makes, executes or delivers out any policy which is not duly

stamped, or pays or allows in account, or agrees to pay or allow in account, any money upon, or in respect of, any such policy; shall be punishable with fine which may extend to two hundred rupees.

67. Penalty for not drawing full number of bills or marine policies purporting to be in sets :-

Any person drawing or executing a bill of exchange [payable otherwise than on demand] or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be punishable with fine which may extend to one thousand rupees.

68. Penalty for post-dating bills, and for other devices to defraud the revenue :-

Any person who,

(a) with intent to defraud the Government of duty, draws, makes or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made; or

(b) knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays or receives payment of, such bill or note, or in any manner negotiates the same; or

(c) with the like intent, practises or is concerned in any act, contrivance or device not specially provided for by this Act or any other law for the time being in force; shall be punishable with fine which may extend to one thousand rupees.

69. Penalty for breach of rule relating to sale of stamps and for unauthorised sale :-

(a) Any person appointed to sell stamps who disobeys any rule made under section 74; and

(b) any person not so appointed who sells or offers for sale any stamp (other than a [ten naye paise or five naye paise] adhesive stamp); shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

70. Institution and conduct of prosecutions :-

(1) No prosecution in respect of any offence punishable under this Act or any Act hereby [the State Government] generally, or the Collector specially, authorises in that behalf.

(2) The Chief Controlling Revenue-authority, or any officer generally or specially authorised by it in this behalf, may stay any such prosecution or compound any such offence.

(3) The amount of any such composition shall be recoverable in the manner

provided by section 48.

71. Jurisdiction of Magistrates :-

No Magistrate other than a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the second class, shall try any offence under this Act.

72. Place of trial :-

Every such offence committed in respect of any instrument may be

tried in any district or presidency-town in which such instrument is found as well as in any district or presidency-town in which such offence might be tried under the Code of Criminal Procedure for time being in force.

CHAPTER 8 Supplemental Provisions

73. Books, etc., to be open to inspection :-

Every public officer having in his custody any registers, books, records, papers, documents or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorised in writing by the Collector to inspect for such purpose the registers, books, papers, documents and proceedings, and to take such notes and extracts as he may deem necessary, without fee or charge.

73A. Collectors power to authorise officer to enter premises, inspect certain documents, and seize them, if necessary :-

(1) The Collector may, where he has reason to believe that all or any of the instruments specified in Entry 91 of List 1 in the Seventh Schedule to the Constitution of India have not been charged at all or have been incorrectly charged with duty leviable under this Act, authorise in writing any officer to enter upon any premises where he has reason to believe that any registers, books, records, papers, documents or proceedings relating to or in connection with any such instrument are kept in such premises, and to inspect them, and to take such notes and extracts as such officer deems necessary, and, if necessary, to seize them and to impound them under section 33.

(2) Every person having in his custody or maintaining such registers, books, records, papers, documents or proceedings shall, when so required by the officer authorised under sub-section (1), produce them before such

74. Powers to make rules relating to sale of stamps :-

[The State Government] * * * may make rules for regulating

(a) the supply and sale of stamps and stamped papers,

(b) the persons by whom alone such sale is to be conducted, and

(c) the duties and remuneration of such persons:

Provided that such rules shall not restrict the sale of [ten naye paise or five naye paise] adhesive stamps.

75. Power to make rules generally to carry out Act :-

The [State Government] may make rules to carry out generally the purposes of this Act, and may by such rules prescribe the fines, which shall in no case exceed five hundred rupees, to be incurred on breach thereof.

76. Publication of rules :-

(1) All rules made under this Act shall be published in the Official Gazette.

(2) All rules published as required by this section shall, upon such publication, have effect as if enacted by this Act.

76A. Delegation of certain powers :-

[46* * * * The State Government, may by notification in the Official Gazette], delegate

(a) all or any of the powers conferred on it by section 2(9), 33(3)

(b), 70(1), 74 and 78 to the Chief Controlling Revenue-authority;

and

(b) all or any of the powers conferred on the Chief Controlling Revenue-authority by sections 45(1)(2), 56(1) and 70(2) to such subordinate Revenue-authority as may be specified in the notification.

77. Saving as to court-fees :-

[Except for the provisions as to copies contained in section 6A] nothing in this Act contained shall be deemed to affect the duties chargeable under any enactment for the time being in force relating to court-fees.

77A. Saving as to certain stamps :-

All stamps in denominations of annas four or multiples thereof shall be deemed to be stamps of the value of twenty-five naye paise or, as the case may be, multiples thereof and half, accordingly, be valid for all the purposes of this Act.

78. Act to be translated and sold cheaply :-

Every [State Government] shall make provision for the sale of translations of this Act in the principal vernacular languages of the territories administered by it at a price not exceeding [twenty-five naye paise] per copy.

79. Repeal :-

Rep. by Act 10 of 1914.

SCHEDULE 1

Stamp-Duty on Instruments

SCHEDULE I	
Stamp-Duty on Instruments	
(See section 3.)	
Description of Instrument.	Proper Stamp-duty.

1. Acknowledgement of a debt exceeding twenty rupees in amount or value, written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a bankers pass-book) or on a separate piece of paper when such book or paper is left in the creditors possession: provided that such acknowledgement does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property.	One anna
2. Administration-Bond; including a bond given under section 256 of the Indian Succession Act, 1865, section 6 of the Government Savings Banks Act, 1873, section 78 of the Probate and Administration Act, 1881, or section 9 or section 10 of the Succession Certificate Act, 1889,
(a) where the amount does not exceed Rs. 1,000 ...	The same duty as a Bond No. 15) for such amount.
(b) in any other case ...	Five rupees.
3. Adoption-Deed, that is to say, any instrument (other than a will) recording an adoption or conferring or purporting to confer an authority to adopt. Advocata. See Entry as an Advocate (No. 30).	Ten rupees.
4. Affidavit; including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing.	One rupee.
Exemptions.	.
Affidavit or declaration in writing when made	.
(a) as a condition of enrolment under the Indian Army Act, 1911], [or the Indian Air Force Act, 1932];	.
(b) for the immediate purpose of being filed or used in any Court or before the officer of any Court; or	.
(c) for the sole purpose of enabling any person to receive any pension or charitable allowance.	.
5. Agreement or Memorandum of An Agreement	Two rupees
(a) if relating to the sale of a bill of exchange;	