

# **The Stamp Act, 1977 (1920 A. D.)**

JAMMU & KASHMIR

India

## **The Stamp Act, 1977 (1920 A. D.)**

### **Act 40 of 1977**

- Published on 11 September 1920
- Commenced on 11 September 1920
- [This is the version of this document from 11 September 1920.]
- [Note: The original publication document is not available and this content could not be verified.]

The Stamp Act, 1977 (1920 A. D.) Act No. 40 of 1977 [Sanctioned by His Highness the Maharaja Sahib Bahadur per Chief Minister's endorsement No. 8372, dated 11th September, 1920 and State Council Resolutions No. 1, dated 8th April, 1925. (Notification 14-L/81)] 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 I**

### **Preliminary**

#### **1. [ Name, extent and enforcement. [Section 1 was received by Act XI of 1993.]**

(1) This Act may be called the Stamp Act, 1977. (2) It extends to the whole of Jammu and Kashmir State. It shall come into force on the 1st day of Baisakh, 1978].

#### **2. Definitions.**

- In this Act, unless there is something repugnant in the subject or context,-(1) [ "Banker" means an association, a company or a person who accepts, for the purposes of lending or investment, deposits of money from the public, repayable on demand or otherwise and withdrawable by cheque, draft, order or otherwise; ] [Substituted by Act No. XII of 2011, dated 25th April, 2011.] (2) "Bill of exchange". - "bill of exchange" means a bill of exchange as defined by the Negotiable Instruments Act, and includes also a hundi, and any other document entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money; (3) "Bill of exchange payable on demand". - "bill of exchange payable on demand" includes,-(a) an order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any

sum of money, or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen; (b) an order for the payment of any sum of money weekly, monthly or at any other stated periods; 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) Omitted. (5) "Bond". - "bond" includes- (a) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be ; (b) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another; and (c) any instrument so attested, whereby a person obliges himself to deliver grain or other agricultural produce to another. [Explanation. - Notwithstanding anything contained in any law for the time being in force, for the purposes of this clause "attested", in relation to an instrument means attested by one or more witnesses each of whom has seen the executant sign or affix his mark to the instrument; or has seen the executant sign or has received from the executant personal acknowledgement of his signature or mark or of the signature of such other person, and each of whom has signed the instrument in the presence of the executant, but it shall not be necessary that more than one of such witnesses shall have been present at the same time, and no particular form of attestation shall be necessary;] [Added by Act No. XII of 2011, dated 25th April, 2011.] (6) "Chargeable". - "chargeable" means, as applied to an instrument executed or first executed after the commencement of this Act, chargeable under this Act, and as applied to any other instrument, chargeable under the law in force in the State when such instrument was executed or, where several persons executed the instrument at different times, first executed; (7) "Cheque". - "cheque" means a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand; (8) Omitted. (9) [ "Collector" means the Deputy Commissioner of a district and includes any officer whom the Government may, by notification in the Government Gazette, appoint in this behalf and on whom any or all powers of the Collector under this Act are conferred by the said notification or any other notification;] [Substituted by Act No. XII of 2011, dated 25th April, 2011.] [(9-A) "Commissioner of Stamps" means such officer as the Government, may, by notification in the Government Gazette, appoint in this behalf, for the whole or any part of the State;] [Substituted by Act No. XII of 2011, dated 25th April, 2011.] (10) [ "conveyance" includes- [Substituted by Act No. XII of 2011, dated 25th April, 2011.] (i) a conveyance on sale; (ii) every decree or final order of any civil court or revenue authority; (iii) every order made by the High Court/ Tribunal under section 394 of the Companies Act, 1956 (Central Act) in respect of the amalgamation or reconstruction of companies; (iv) every order made by the Reserve Bank of India under section 44A of the Banking Regulation Act, 1949 in respect of amalgamation or reconstruction of Banking Companies; and (v) any other instrument, by which property, whether movable or immovable, or any estate or interest in any property is transferred to, or vested in, any other person inter vivos and which is not specifically provided for by Schedule-I;] [(10-A) "Deputy Commissioner of Stamps" means an officer appointed by the Government as Deputy Commissioner of Stamps.] [Inserted by Act III of 2006, w.e.f. 6.1.2006.] (11) "Duly stamped". - "duly stamped", as applied to an instrument, means that the instrument bears [a stamp] [Substituted by Act No. XII of 2011, dated 25th April, 2011.] 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 the State ; (12) [ "Executed and execution" used with reference to instruments, means "signed" and "signature", and includes attribution of electronic record as per section 11 of the Information Technology Act, 2000 (Central

Act 21 of 2000);] [Substituted by Act No. XII of 2011, dated 25th April, 2011.](12A)[ "immovable property" includes land, buildings, hereditary allowances, rights to way, light, ferries and fisheries or any other benefit arising out of land and things attached to the earth or anything permanently fastened to anything permanently fastened to anything attached to the earth but does not include standing timber, growing crops or grass;] [Substituted by Act No. XII of 2011, dated 25th April, 2011.](13)"Impressed stamp". - "impressed stamp" includes-(a)labels affixed and impressed by the proper officer, and(b)stamps embossed or engraved on stamped paper ;(c)[ impression, mark or endorsement by a machine or any other mode of stamping, as the Government may, by notification in the Government Gazette, specify;] [Substituted by Act No. XII of 2011, dated 25th April, 2011.](14)[ "Instrument" includes every document and every electronic record as defined under clause (t) of section 2 of the Information Technology Act, 2000 (Central Act 21 of 2000) by which any right or liability is or is purported to be, created, transferred, limited, extended, extinguished or recorded and any other document mentioned in the Schedule-I;] [Substituted by Act No. XII of 2011, dated 25th April, 2011.](15)[ "Instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and also includes- [Substituted by Act No. XII of 2011, dated 25th April, 2011.](a)a final order for effecting a partition passed by any Revenue Authority or any Civil Court(b)an award by an arbitrator directing the partition; and(c)when any partition is effected without executing any such instrument, any instrument signed by co-owners and recording, whether by way of a declaration of such partition or otherwise, the terms of such partition amongst the co-owners;](16)"Lease". - "lease" means a lease of immovable property, and includes also-(a)a patta;(b)a kabuliyat or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy or pay or deliver rent for, immovable property ;(c)any instrument by which tolls of any description are let;(d)any writing on an application for a lease intended to signify that the application is granted.(e)[ any agreement to lease; and [Added by Act No. XII of 2011, dated 25th April, 2011.](f)a decree or final order of any civil or revenue court, by which the lease rights are transferred in favour of these lessee;](16A)[ "market value" in relation to any property which is the subject matter of an instrument, means the price which such property would fetch or would have fetched if sold in open market on the date of execution of such instrument as determined in such manner and by such authority as specified in this Act, or the rules made thereunder or the considerations stated in the instrument, whichever is higher; [Substituted by Act No. XII of 2011, dated 25th April, 2011.](16B)"marketable security" means a security of such a description as to be capable of being sold in any stock market in India or abroad;](17)"Mortgage deed." - "mortgage-deed" includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of a engagement, one person transfers, or creates, to, or in favour of, another, a right over or in respect of specified property;(17A)[ "movable property" includes standing timber, growing crops and grass, and fruit upon, or juice in, the trees, and property of every other description except immovable property;] [Inserted by Act No. XII of 2011, dated 25th April, 2011.](18)"Paper". - "paper" includes vellum, parchment or any other material on which an instrument may be written ;(19)"Policy of insurance". - "policy of insurance" includes-(a)any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event;(b)a life-policy, and any policy insuring any person against accident or sickness, and any other personal insurance;(20)Omitted.(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 and includes an instrument by which a person, not being a person who is legal practitioner, is authorised to appear on behalf of any party in any proceeding before any court, tribunal or authority;] [Substituted by Act No. XII of 2011, dated 25th April, 2011.](22)Promissory note. - "promissory note" means a promissory note as defined by the Negotiable Instruments Act;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.(22A)[ "public officer" means a public officer as defined in clause (17) of section 2 of the Code of Civil Procedure, Samvat 1977;] [Inserted by Act No. XII of 2011, dated 25th April, 2011.](23)"Receipt". - "receipt" includes any note, memorandum or writing-(a)whereby any money, or any bill of exchange, cheque or promissory note is acknowledged to have been received, or(b)whereby any other movable property is acknowledged to have been received in satisfaction of a debt, or(c)where by 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 acknowledgement,and whether the same is or is not signed with the name of any person; and[(23-A) "Rural Areas" mean areas which do not fall within the limits of any Municipal Corporation, Municipal Council or Municipal Committee constituted under any law for the time being in force.] [Inserted by Act III of 2006, w.e.f. 6.1.2006.](24)"Settlement". - "settlement" means any non-testamentary disposition, in writing, of movable or immovable property made-(a)in consideration of marriage,(b)for the purpose of distributing property of the settler among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him, or(c)for any religious or charitable purpose;and includes an agreement in writing to make such a disposition 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.(24A)[ "Stamp". - "stamp" means any mark, seal or endorsement by any agency or person duly authorized by the State Government, and includes an adhesive or [impressed or electronic stamp] [Inserted by Act No. 26 of 2010, dated 25th October, 2010.], for the purpose of duty chargeable under this Act.](25)[ "Urban Areas" mean areas falling within the limits of any Municipal Corporation, Municipal Council or Municipal Committee constituted under any law for the time being in force"] [Inserted by Act III of 2006, w.e.f. 6.1.2006.]

## Chapter II

### Stamp Duties

A. - Of the Liability of Instruments to Duty.

#### 3. Instruments chargeable with duty.

- Subject to the provisions of this Act and the exemptions contained in Schedule I, the following instruments shall be chargeable with duty of the amount indicated in that schedule as the proper duty therefor respectively, that is to say-(a)every instrument mentioned in that schedule which, not having been previously executed by any person, is executed in the State on or after the date on which this Act comes into force ;(b)every bill of exchange [\*] [The word 'cheque' omitted by Act I of 1993.] [payable otherwise than on demand] [Inserted by Act XI of 1993.] or promissory note drawn or

made out of the State on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated, in the State; and(c)every instrument (other than a bill of exchange, "cheque" [\*] [Omitted by Act I of 1993.] or promissory note) mentioned in that Schedule, which, not having been previously executed by any person, is executed out of the State on or after that day, relates to any property situate, or to any matter or thing done or to be done, in the State and is received in the State :[Provided that wherever no proper duty has been paid on the original of an instrument which is chargeable to duty with an amount indicated in the Schedule-I as the proper duty therefor, a copy of such instrument or record relating to, or in respect of, the transaction shall be chargeable with duty of an amount which is indicated in Schedule-I as the proper duty for the original of such instrument;] [Inserted by Act No. XII of 2011, dated 25th April, 2011.][Provided further that] [Substituted by Act No. XII of 2011, dated 25th April, 2011.] no duty shall be chargeable in respect of-(1)any instrument executed by, or on behalf of, or in favour of, the Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument;(2)Omitted.

#### **4. Several instruments used in single transaction of sale, mortgage or settlement.**

- [(1) Where in the case of any transaction, several instruments are employed for completing the transaction, only the principal instrument shall be chargeable with a duty prescribed for it in Schedule-I and thereafter, each of the other instruments shall be chargeable with a duty of one hundred rupees.] [Substituted by Act No. XII of 2011, dated 25th April, 2011.](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.

#### **4A. & 4B.**

[\* \* \*] [Omitted by Act No. XII of 2011, dated 25th April, 2011.]

#### **4A. and 4B Omitted by Act No. XII of 2011, dated 25th April, 2011.**

4A. Stamp duty on lease where agreement to execute it bears the stamp duty prescribed for the lease.- Where in respect of an agreement to execute a lease or sub-lease, stamp duty has been paid of an amount which is not less than, the amount of stamp duty prescribed in Schedule I for the lease or sub-lease, a lease or sublease executed in pursuance of the agreement shall be chargeable with a duty not exceeding[three rupee] [Substituted by Act III of 2000, Section 8.]instead of the duty, if any, prescribed for it in that Schedule.4B. Stamp duty on amalgamation etc. of Companies.- Whenever an amalgamation or arrangement of Companies with such persons as prescribed in section 391 and section 394 of the Companies Act, 1956 take place, the stamp duty shall be charged thereon as a conveyance under the provisions of this Act.

## **5. Instruments relating to several distinct matters**

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

## **6. Instruments coming within several description in Schedule I.**

- Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more to the descriptions [given] [Inserted by Notification No. II-1486 publication in the Government Gazette dated 28th Maghar, 1986.] in Schedule I, 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 one hundred rupees] [Substituted by Act No. XII of 2011, dated 25th April, 2011.] a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

## **7.**

Omitted

## **8.**

Omitted.

## **9. Power to reduce, remit or compound duties.**

- [The Government, if satisfied that it is necessary to do so in the public interest, may] [Substituted by Act No. XII of 2011, dated 25th April, 2011.], by rule or order published in the Government Gazette, -(a) reduce or remit, whether prospectively or retrospectively, in the whole or any part of the State, 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 of policies of insurance and on issues by any incorporated company or other body corporate, or on transfers where there is a single transferee whether incorporated or not, of debentures, bonds or other marketable securities.] [Substituted by Act No. XII of 2011, dated 25th April, 2011.] B. - Of Stamps and the mode of using them.

## **10. [ Duties how to be paid. [Substituted by Act No. XII of 2011, dated 25th April, 2011.]**

(1) Except as otherwise expressly provided in this Act, all duties with which the instruments are chargeable shall be paid, and such payment shall be indicated on such instrument, [by means of stamps], -(a) in accordance with the provisions herein contained; or (b) when no such provision is

applicable thereto, as the Government may by rules prescribe:(2)The rules as mentioned in clause (b) of sub-section (1) may, among other matters, regulate-(a)in the case of any or all kinds of instruments 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, the size of the paper on which they are written;(d)the use of franking machine or any other machine as specified in the rules; and(e)the use and procedure of electronic stamping.(3)Subject to the rules made under sub-section (2), the Government may authorize any person, body or organization, including post offices and banks, to use a franking machine or any other such machine for making impression of stamps, indicating the payment of stamp duty on the instruments.(4)The stamp duty may be paid in cash by a challan in any Government treasury, sub-treasury or bank authorized to conduct Government business and such payment shall be indicated on such instrument by endorsement to that effect made on the instrument by such officer as may be authorized by the Government in this behalf.(5)Notwithstanding anything contained in sub-section (4), and subject to rules made by the Government in this behalf, the duty on an instrument can also be paid in the Government Account electronically and indicated by means of a certificate issued under Electronic Stamping System specified by the Government for the purpose:Provided that if the Government is satisfied that circumstances exist in public interest to restrict the mode of indicating the payment of duty on any instrument or a particular class of instruments to any of the modes as specified in sub-section (4) and this sub-section, it can do so by an order published in this behalf in the Government Gazette.(6)An impression or endorsement made on an instrument under sub-sections (3), (4) and (5) shall have the same effect as if the duty of an amount equal to the amount indicated in the impression or endorsement, as the case may be, had been paid in respect of that instrument and such payment had been indicated on such instrument by means of stamps under sub-section (1).]

## **11. [ Use of adhesive stamps. [Substituted by Act No. XII of 2011, dated 25th April, 2011.]**

- The following instruments may be stamped with adhesive stamps, namely:-(a)acknowledgement (article 1);(b)articles of association (article 10);(c)certificates (article 16);(d)delivery order in respect of goods (article 23)(e)letter of allotment of shares (article 30)(f)letter of credit (article 31);(g)notarial act (article 37);(h)note or memorandum (article 38);(i)policy of insurance (article 41);(j)protest of bill or note (article 44);(k)proxy (article 45);(l)receipt (article 46);(m)transfer of shares [article 54(a)]; and(n)warrant for goods (article 57).]

## **12. Cancellation of adhesive stamps.**

(1)(a)Whoever affixes any adhesive stamp to any instrument chargeable with duty which has been executed by any person shall, when affixing such stamp, cancel the same so that it cannot be used again; and(b)whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.(2)Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again, shall, so far as such stamp is concerned, be deemed to be unstamped.(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 form 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. Where a stamp duty payable in respect of an instrument is made of two or more papers stamped with impressed stamp, the instrument shall be written in such manner that some part of the writing shall, as far as possible, appear on each such paper so as to leave as few blank sheets as possible. Each blank sheet shall be dated and signed and shown as part of the instrument. [Explanation. - Where two or more sheets of paper stamped with impressed stamps are used to make up the amount of duty chargeable in respect of any instrument, either a portion of such instrument shall be written on each sheet so used or the sheet on which no such portion is written shall be signed by the executant or the executants, as the case may be, with an endorsement indicating that sheet is attached to another sheet on which the instrument is written. Explanation. - Where a single sheet of paper, not being paper bearing an impressed hundi stamp, is insufficient to admit of the entire instrument being written on the stamped paper, so much plain paper may be sub-joined thereto as may be necessary for completing the writing of such instrument, provided a substantial part of the instrument is written on the sheet which bears the stamp before any part is written on the plain sub-joined and such plain paper shall be signed by the executant or the executants, as the case may be.] [Added by Act No. XII of 2011, dated 25th April, 2011.]

### **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.

### **14A. [ Alteration in instruments how to be charged. [Inserted by Act No. XII of 2011, dated 25th April, 2011.]**

- Where due to material alterations made in an instrument by a party, with or without the consent of other parties, the character of the instrument is materially or substantially altered, then such instrument shall require a fresh stamp duty according to its altered character. Explanation. - For the purpose of this section, a material alteration is one which varies the rights, liabilities or legal position of the parties as ascertained by the instrument in its original state or otherwise varies the legal effect of the instrument as originally executed.]



## **15. [ Instruments deemed not duly stamped. [Substituted by Act No. XII of 2011, dated 25th April, 2011.]**

- Every instrument written in contravention of section 13, 14 or 14A shall be deemed to be not duly stamped.]

## **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 Government] [In section 9, 10, 16, 18, 26, 33(3), 37, 49, 57, 70(1), 75, 76-A and 78 for the words 'High Highness' the words 'the Government' substituted by Act X of 1996.] may by rule prescribe.C. - Of the time of Stamping Instruments.

## **17. Instruments executed in the State.**

- All instruments chargeable with duty and executed by any person in the State shall be stamped before or at the time of execution [or immediately thereafter] [Inserted by Act No. XII of 2011, dated 25th April, 2011.].

## **18. Instruments other than bills and notes executed out of the State.**

(1)Every instrument chargeable with duty executed only out of the State, and not being a bill of exchange [\*] [Word 'cheque' omitted by Act XI of 1993.] or promissory note, may be stamped within three months after it has been first received in the State.(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 Government] [In section 9, 10, 16, 18, 26, 33(3), 37, 49, 57, 70(1), 75, 76-A and 78 for the words 'High Highness' the words 'the Government' substituted by Act X of 1996.] may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

## **19. Bills and notes drawn out of the State.**

- The first holder in the State of any bill of exchange [\*] [Word 'cheque' omitted by Act XI of 1993.] [payable otherwise than on demand] [Inserted by Act XI of 1993.] or promissory note drawn or made out of the State shall, before he presents the same for acceptance or payment, or endorses, transfers otherwise negotiates the same in the State, affix thereto the proper stamp and cancel the same :Provided the,-(a)if, at the time any such bill of exchange [\*] [Word 'cheque' omitted by Act XI of 1993.] or note comes into the hands of any holder thereof in the State, the proper adhesive stamp

is affixed thereto and cancelled in manner prescribed by section 12 and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by the person and at the time required by this Act, such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled;(b)nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.D. - Of valuations for Duty.

## **20. [ Conversion of amount expressed in foreign currency. [Section 20 inserted by Act VII of 1994.]**

- When an instrument is chargeable with ad valorem duty in respect of any money expressed in any currency other than that of [India,] such duty shall be calculated of the value of such money in the currency of [India] [Substituted by A.L.O. 2008 for 'British India'.] according to the rate of exchange prevailing in India on the day of the date of the instrument [\* \* \*] [Omitted words 'under a Notification of the Governor-General in Council issued under sub-section (2) of section 20 of Act II of 1899' by Act No. XII of 2011, dated 25th April, 2011.].]

## **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 of 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. Instrument 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 of marketable securities to be chargeable as agreements.**

(1)Where an instrument (not being a promissory note or bill of exchange)-(a)is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt, or(b)makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security, it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under Article No. 5 (c) of Schedule I.(2)A release or discharge of any such instrument shall only be chargeable with the

like duty.

## **24. How transfer in consideration of debt, or subject to future payment etc. to be charged.**

- Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, where being or constituting a charge or incumbrances 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: Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article No. [16] [Substituted by Act III of 2000, Section 11.] 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. 5000. 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 ten 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 ten 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 of 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: Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it [shall be subject to the provisions of section 26-A sufficient] [Substituted by Act No. XII of 2011, dated 25th April, 2011.] 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 [the Government] [In section 9, 10, 16, 18, 26, 33(3), 37, 49, 57, 70(1), 75, 76-A and 78 for the words 'High Highness' the words 'the Government' substituted by Act X of 1996.], at such amount or value as the Collector may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to [the Government] [In section 9, 10, 16, 18, 26, 33(3), 37, 49, 57, 70(1), 75, 76-A and 78 for the words 'High Highness' the words 'the Government' substituted by Act X of 1996.] under the lease, or, (b) when the lease has been granted by any other person, at [two lakh rupees] [Substituted by Act No. XII of 2011, dated 25th April, 2011.] 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.

**26A. [ Special provision to re-assess stamp duty on instruments of mining leases. - Where an instrument of a mining lease is made chargeable with duty under section 26 or on the basis of dead rent set forth in the instrument at the time of its execution, the Collector may suo motu, within five years from the date of registration of the instrument of lease, call for and examine the instrument for the purpose of satisfying himself as to the correctness of the amount or value of the royalty or share of produce estimated and the duty paid thereon and if, after such examination he finds that the amount or value of the royalty or share of product received is more than the amount or value on the basis of which stamp duty was paid at the time of execution of the lease, he shall re-assess the amount or value of the royalty or share and the duty payable thereon in respect of the lease taking into account the amount or value of royalty or share actually paid during the period and, having regard to all the circumstances of the case and after giving the parties a reasonable opportunity of being heard, and the difference, if any, in the amount of duty shall be payable by the person liable to pay the duty.] [Inserted by Act No. XII of 2011, dated 25th April, 2011.]**

**27. [ Facts affecting duty to be set forth in the instrument. [Substituted by Act No. XII of 2011, dated 25th April, 2011.]**

(1) The consideration, if any, the market value and all other facts affecting the charge-ability of any

instrument with duty, or the amount of duty with which it is chargeable, shall be fully and truly set forth therein.(2)In the case of instruments relating to immoveable property chargeable with an ad valorem duty on the market value of the property, and not on the value set forth, the instrument shall fully and truly set forth the annual land revenue, the annual rental or gross assets, as the case may be, the local rates, municipal or other taxes, if any, to which such property is subject to and any other particulars which may be prescribed by rules made under this Act.(3)A registering officer appointed under section 6 of the Registration Act, Samvat 1977 or any other officer authorised in his behalf may inspect, take photographs and measurement of the property, which is the subject matter of such instrument, in order to satisfy that the provisions of this section have been complied within respect of such instruments.]

**27A. [ Fixation of market value guidelines. - Subject to rules, made, in this behalf, the Government may fix and revise periodically the market value guidelines of lands, buildings and various kinds of interests in immovable property situated in the State for the purpose of determining the duty chargeable at the time of registration and for making reference to the Collector under section 47-A, of instruments involving immovable properties.] [Inserted by Act No. XII of 2011, dated 25th April, 2011.]**

**28. [ Direction as to duty in respect of certain conveyances. [Substituted by Act No. XII of 2011, dated 25th April, 2011.]**

(1)Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separated parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit:Provided that distinct market value of 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 market value of each such part.(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 market value or the property relating to such 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 on the market value of the property so conveyed.(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 person and the property is in consequence conveyed by the original seller to different person in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with ad valorem duty in respect only of the market value of the property purchased by such sub-purchaser 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

market value of such residue: Provided that the duty on such last mentioned conveyance shall in no case be less than one hundred 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 market value of the property purchased by him or the market value of the property which is the subject matter of conveyances 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 market value of the property which is subject matter of conveyance, or where such duty would exceed five hundred rupees, with a duty of five hundred rupees.] F. - Duty by whom payable

## **29. [ Duties by whom payable. [Substituted by Act No. XII of 2011, dated 25th April, 2011.]**

- 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, namely :- article 2 (Administration Bond); article 6 (Agreement relating to Deposit of title-deeds, pawn, or Pledge); article 12 (Bill of Exchange); article 13 (Bond); article 21 (Customs Bond); article 22 (Debenture); article 26 (Further Charge); article 28 (Indemnity-Bond); article 35 (Mortgage-Deed); article 43 (Promissory-Note); article 48 (Release); article 49 (Security Bond or Mortgage-Deed); article 50 (Settlement); article 54 (a) (Transfer of shares in an incorporated company or other body corporate); No. 54 (b) (Transfer of Debentures, being, marketable securities, whether the debenture is liable to duty or not); and No. 54 (c) (Transfer of any interest secured by a bond, mortgage-deed or policy of insurance), by the person drawing, making or executing such instrument; (b) in the case of a policy of insurance other than fire-insurance by the person effecting the insurance; (c) in the case of policy of fire-insurance, by the person issuing the policy; (d) in the case of a conveyance (including a re-conveyance of mortgaged property) by the grantee; (e) in the case of a lease or agreement to lease by the lessee or intended lessee; (f) in the case of counter part of a lease, by the lessor; (g) in the case of an instrument of exchange, by the parties in equal shares; (h) in the case of a certificate of sale, by the purchaser of the property to which such certificate relates; (i) 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; and (j) in case of any instrument not specified in clauses (a) to (g) of this section and elsewhere in this Act, by the person making, drawing or executing such instrument.]

## **30. Obligation to give receipt in certain cases.**

- Any person receiving any money exceeding [one hundred rupees] [Substituted for 'forty rupees' by Act No. XII of 2011, dated 25th April, 2011.] in amount, or any bill of exchange, cheque or promissory note for an amount exceeding [one hundred rupees] [Substituted for 'forty rupees' by Act No. XII of 2011, dated 25th April, 2011.] or receiving in satisfaction or part satisfaction of a debt any movable property exceeding [one hundred rupees] [Substituted for 'forty rupees' by Act No. XII of 2011, dated 25th April, 2011.] 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. Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire insurance, shall, within one month after receiving or taking credit for such premium or consideration, give a duly stamped receipt for the same.

## Chapter III

### Adjudication as to Stamps

#### 31. Adjudication as to Proper Stamps.

(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 office as to the duty (if any) with which it is chargeable, and pays [a fee of one hundred rupees] [Substituted for 'a fee of such amount (not exceeding five rupees and not less than fifty Paise as the Collector may in each case direct' by Act No. XII of 2011, dated 25th April, 2011.], 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 charge-ability 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 up to 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 enquiry 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. (3) [The market value of the property for purpose of stamp duty under the Act shall be determined by such authority and in such manner as may be prescribed under rules made by the Government.] [Substituted by Act No. XII of 2011, dated 25th April, 2011.] [\* \* \*] [Omitted sub-section (4) 'Where the Collector acting under sub-sections (1) and (2) has reason to believe that the market value of the property, which is the subject matter of instrument received by him for adjudication, has not been truly set forth therein, he shall, for the purposes of assessing the stamp duty determine the true market value of such property as laid down in the rules formulated for the purpose by the Government.' by Act No. XII of 2011, dated 25th April, 2011.] (4) [Renumbered sub-section (5) as sub-section (4) by Act No. XII of 2011, dated 25th April, 2011.] When an instrument is brought to the Collector for adjudication, the person liable to pay the stamp duty [\* \* \*] [Omitted words 'under section 29' by Act No. XII of 2011, dated 25th April, 2011.] shall pay the same within sixty days from the date of service of the demand in respect of the stamp duty adjudicated by the Collector. If such person fails to pay the stamp duty so demanded within the said period, he shall be liable to pay a penalty at the rate of 20% of the deficient portion of the stamp duty, for every month or part thereof, from the date of execution of such instrument.

## **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)[Subject to the provisions of Chapter VI, any instrument] [Substituted by Act No. XII of 2011, dated 25th April, 2011.] upon which an endorsement has been made under this section, shall be deemed to be duly stamped or not chargeable with duty, as the case may be; and if chargeable with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped:Provided that nothing in this section shall authorise the Collector to endorse-(a)any instrument executed or first executed in the State and brought to him after the expiration of one month from the date of its execution or first execution, as the case may be; or(b)any instrument executed or first executed out of the State and brought to him after the expiration of three months after it has been first received in the State.(4)[ In case the instrument is produced before the Collector after the period prescribed in proviso to sub-section (3), the Collector shall proceed under sections 33 and 40.] [Substituted by Act No. XII of 2011, dated 25th April, 2011.]

## **Chapter IV**

### **Instruments not duly stamped**

## **33. Examination and impounding of instruments.**

(1)Every person having by law or consent of parties authority to receive evidence, and every persons in charge of a public office, except [an officer of police or any other officer empowered by law to investigate offences] [Substituted by Act No. XII of 2011, dated 25th April, 2011.], before whom any instrument, chargeable in his opinion, with duty, is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.(2)For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in the State when such instrument was executed or first executed :Provided that-(a)nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure;(b)in the case of a Judge of the High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.(3)For the purposes of this section, in case of doubt, [the Government] [In section 9, 10, 16, 18, 26, 33(3), 37, 49, 57, 70(1), 75, 76-A and 78 for the words 'High Highness' the words 'the Government' substituted by Act X of 1996.] may determine what



offices should be public offices and who shall be deemed to be persons in charge of such public offices.(4)[ When a person referred to in sub-section (1), during the course of inspection or otherwise, detects from an instrument or copy thereof that the instrument is not duly stamped, such person shall forthwith make a reference to the Collector in the matter.(5)The Collector may, either suo motu or on a reference, call for the original instrument for ascertaining whether it is duly stamped and the instrument so produced shall be deemed to have been produced or come before him in the performance of his functions, and in case the original instrument is not produced within the period specified by the Collector, he may require the payment of the proper duty or the amount required to make up the same together with the penalty under section 40 from the person liable to pay the duty.] [Substituted by Act No. XII of 2011, dated 25th April, 2011.]

### **34. Special provision as to unstamped receipts.**

- Where any receipt chargeable with a duty of one rupee 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 thereof.

### **35. [ Instruments not duly stamped inadmissible in evidence, etc. [Substituted by Act No. XII of 2011, dated 25th April, 2011.]**

- 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 or if the instrument is duly stamped or if the instrument is written on sheet of paper with impressed stamp, such stamp paper is purchased in the name of one of the parties to the instrument. Provided that-(a)any such instrument 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 equal to two per cent of the deficient portion of stamp duty for every month or part thereof, from the date of execution of the instrument, minimum being Rs. 100;(b)where any person from whom a stamped receipt could have been demanded, has given an unstamped receipt and such receipt, if stamped, would be admissible in evidence against him, then such receipt shall be admitted in evidence against him on payment of penalty of one hundred rupees 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 anyone 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 IX or part D of Chapter X of the Code of Criminal Procedure, Samvat 1989;(e)nothing herein contained shall prevent the admission of any instrument in any court when such instrument has been executed by or on behalf of the Government or where it bears the certificate of the collector as provided by section 32 or any other provision of this Act and such certificate has not been revised in exercise of powers conferred under chapter VI;(f)nothing herein contained shall prevent the admission of a copy of any instrument or of an oral admission of the contents of any instrument, if the stamp duty or a deficient of the stamp duty and penalty as specified in clause (a) is paid; and(g)any such instrument subject to

all just exceptions be registered or authenticated 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.]

### **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 Government] [In section 9, 10, 16, 18, 26, 33(3), 37, 49, 57, 70(1), 75, 76-A and 78 for the words 'High Highness' the words 'the Government' substituted by Act X of 1996.] may make rules providing that, where an instrument bears a stamp of sufficient amount but of improper description, it may, on payment of the duty with which the same is chargeable, be certified to be duly stamped, and any instrument so certified shall then be deemed to have been duly stamped as from the date of its execution.

### **38. Instruments impounded how dealt with.**

(1)When the person impounding an instrument under section 33 has by law or consent of parties authority to receive evidence and admits such instrument in evidence upon payment of a penalty as provided by section 35 or of duty as provided by section 37, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the amount of duty and penalty levied in respect thereof, and shall send such amount to the Collector, or to such person as he may appoint in this behalf.(2)In every other case, the person so impounding an instruments shall send in original to the Collector.

### **39. [ Collector's power to refund penalty. [Substituted by Act No. XII of 2011, dated 25th April, 2011.]**

(1)When a copy of an instrument has impounded only because it has been written in contravention of section 13 or section 14 or section 14-A, the Collector may refund the whole penalty so paid.]

### **40. [ Collector's power to stamp instruments impounded. [Substituted by Act No. XII of 2011, dated 25th April, 2011.]**

(1)When the Collector impounds any instrument under section 33, or receives any instrument sent to him under sub-section (2) of section 38, he shall adopt the following procedure.-(a)when any instrument so impounded or received by the Collector relates to a transaction of immovable property and on which the stamp duty is chargeable on the basis of market value of the subject matter property, the Collector shall for the purpose of assessing proper stamp duty payable thereon,

determine the market value of such property by following the procedure as prescribed by rules made by the State Government in this behalf;(b)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; and(c)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 equal to two per cent of the deficient portion or the stamp duty for every month or part thereof from the date of execution of the instrument, minimum being rupees one hundred.Provided that when such instrument has been impounded only because it has been written in contravention of section 13 or section 14 or section 14-A, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.(2)Subject to the provisions of Chapter VI, every certificate under 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 sub-section (2) of section 38, the Collector shall, when he has dealt with it as provided by this section, return it to the impounding officer.]

#### **41. Instruments unduly stamped by accident.**

- If any instrument chargeable with duty and not duly stamped, not being an instrument chargeable with a duty of [one rupee] [Substituted by Act III of 2000, Section 16 & 17.] only or a bill of exchange or promissory note, [or acknowledgement] [Inserted by Act II of 1956.], 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 only 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.

#### **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)[Subject to the provisions of Chapter VI, every instrument so endorsed] [Substituted by Act No. XII of 2011, dated 25th April, 2011.] 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, Order XIII, rule 9.

#### **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 who appear; to have committed an offence against the Stamps-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 the 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 of Commissioner of Stamps to refund penalty or excess duty in certain cases. [Substituted by Act No. XII of 2011, dated 25th April, 2011.]**

(1)Where any penalty is paid under section 35 or section 40, the Government 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 Commissioner of stamps, stamp duty in excess of that which is legally chargeable has been charged and paid under section 35 or section 40 or section 47-A, such authority may, upon application in writing made within one year of the order charging the same, or six months from the date of order allowing the refund, whichever is later, refund the excess.]

#### **46. Non-liability for loss of instruments 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 [or] ['Cheque' or 'or cheque' omitted] omitted and words in brackets inserted by Act XI of 1993.] promissory note [\*] ['Cheque' or 'or cheque' omitted and words in brackets inserted by Act XI of 1993.] chargeable with the duty of [ten rupees] [Substituted by Act No. XII of 2011, dated 25th April, 2011.] is presented for payment unstamped, the person to whom it is so presented may affix there to the necessary adhesive stamp, and upon cancelling the same in manner hereinbefore provided, may pay the sum payable upon such bill [or] [Substituted for 'Revenue Minister' by Act X of 1996.] note, [\*] [Substituted for 'Revenue Minister' by Act X of 1996.] 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, [or] ['Cheque' or 'or cheque' omitted and words in brackets inserted by Act XI of 1993.] note, [\*] ['Cheque' or 'or cheque' omitted words in brackets inserted by Act XI of 1993.] 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 [or] ['Cheque' or 'or cheque' omitted and words in brackets inserted by Act XI of 1993.] note [\*] ['Cheque' or 'or cheque' omitted and words in brackets inserted by Act XI of 1993.].

**47A. [ Instruments undervalued how to be dealt with. - (1) If the registering officer appointed under section 6 of the Registration Act, Samvat 1977, while registering any instrument, on which stamp duty is chargeable on the market value of the subject matter property, finds that the market value guidelines referred to in section 27-A, he shall, before registering such instrument refer the same to the Collector for determination of market value of such property and the proper duty payable thereon.**

(2) Where the market value as set forth in the instrument is not less than the market value guidelines referred to in section 27-A but the Registering Officer has reasons to believe that the market value has not been truly set forth in the instrument, he shall register such instrument and thereafter refer the same to the Collector for determination of market value of such property and proper duty payable thereon. (4) The Collector may, either Suo motu or on receipt of information from any source, call for and examine any instrument, not already referred to him under sub-section (1) or sub-section (2), for the purpose of satisfying himself as to the correctness of the market value of the property, which is the subject matter of any such instrument and the duty payable thereon and if, after such examination he has reason to believe that the market value of such property has not been truly set forth in the instrument, he may determine the market value of such property has not been truly set forth in the instrument, he may determine the market value of such property and the duty as aforesaid in accordance with the procedure provided for in sub-section (3) and the difference, if any, in the amount of duty, shall be payable by the person liable to pay the duty. (5) For the purpose of enquiry under this section, the Collector shall have the power to summon and enforce the attendance of witnesses, including the parties to the instrument or any of them and to compel the

production of documents by the same means, and so far as may be in the same manner, as is provided in the case of Civil Court under the Code of Civil Procedure, Samvat 1977.(6)Any person aggrieved by an order of the Collector under sub-section (3) or sub-section (4), may in the prescribed manner appeal against such order to such appellate authority as may be prescribed.(7)The appeal shall be filed within thirty days from the date of the communication of the order against which the appeal is filed, along with a certified copy of the order to which objection is made and shall be presented and verified in such manner as may be prescribed:Provided that in computing the period aforesaid, the time requisite for obtaining a copy of the order to which objection is made and shall be presented and verified in such manner as may be prescribed:(8)The appellate authority shall follow the procedure as may be prescribed:Provided that no order shall be passed by the without affording opportunity of being heard to the appellant.(9)The order passed in the appeal or where no appeal is preferred, the order passed by the Collector under sub-section (3) or sub-section (4) shall be final and shall not be called into question in any civil court or before any other authority whatsoever.] [Inserted by Act No. XII of 2011, dated 25th April, 2011.]

#### **48. [ Recovery of duties and penalties. [Substituted by Act No. XII of 2011, dated 25th April, 2011.]**

(1)All duties, penalties, and other sums' required to be paid under this chapter shall be recoverable as an arrear of land revenue from the property of the person from whom the same are due.(2)All duties, penalties and other sums required to be paid under this chapter shall be a charge on the property which is the subject matter of the instrument:Provided that the provisions of sub-section (2) shall be deemed to apply to cases which are pending recovery and to proceedings under sub-section (1) which have already been initiated.(3)Notwithstanding anything contained in the Registration Act, Samvat 1977, a note of such charge and its extinguishment shall be made in the indices prescribed therein and shall be deemed to be a notice under the said Act.]

## **Chapter V**

### **Allowances for Stamps in certain cases.**

#### **49. Allowances for spoiled stamps.**

- Subject to such rules as may be made by [the Government] [In section 9, 10, 16, 18, 26, 33(3), 37, 49, 57, 70(1), 75, 76-A and 78 for the words 'High Highness' the words 'the Government' substituted by Act X of 1996.] 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 stamps spoiled in the cases hereinafter mentioned, namely :-(a)the stamp on any paper inadvertently and un-designedly, spoiled obliterated or by error in writing or any other means rendered unfit for the purpose intended, before any instrument written therein 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 [\*] ['Cheque' or 'or cheque' omitted and words in brackets inserted by Act XI of 1993.] [payable otherwise than on demand] ['Cheque' or 'or cheque' omitted and words in brackets inserted by Act XI of 1993.] or promissory

notes-(1)the stamp on any [such] ['Cheque' or 'or cheque' omitted and words in brackets inserted by Act XI of 1993.] bill of exchange [\*] ['Cheque' or 'or cheque' omitted and words in brackets inserted by Act XI of 1993.] 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 hand for any purpose other than by way of tender for acceptance; provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange [\*] ['Cheque' or 'or cheque' omitted and words in brackets inserted by Act XI of 1993.] 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; 4(3)the stamps used or intended to be used for any [such] ['Cheque' or 'or cheque' omitted and words in brackets inserted by Act XI of 1993.] bill of exchange [\*] ['Cheque' or 'or cheque' omitted and words in brackets inserted by Act XI of 1993.] 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 [\*] ['Cheque' or 'or cheque' omitted and words in brackets inserted by Act XI of 1993.], 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 [\*] ['Cheque' or 'or cheque' omitted and words in brackets inserted by Act XI of 1993.] or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill [\*] ['Cheque' or 'or cheque' omitted and words in brackets inserted by Act XI of 1993.] 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)become unless 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 undersignedly 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, and impression or endorsement made on any instrument under sub-sections (3), (4) and (5) of section 10 relation to payment of stamp duty is an impressed stamp within the meaning of this section.] [Substituted by Act No. XII of 2011, dated 25th April, 2011.]

## **50. Application for relief under section 49 when to be made.**

- The application for relief under section 49 shall be made within the following periods, that is to say,-(1)in the cases mentioned in clause (d) (5) within two months of the date of the instrument ;(2)in the case of a stamped paper on which no instrument has been executed by any of the parties thereto within six months after the stamp has been spoiled;(3)in the case of a stamped paper in which an instrument has been executed by any of the parties, thereto, within six months after the date of the instrument, or if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed :Provided that,-(a)when the spoiled instrument has been for sufficient reasons sent out of the State, the application may be made within six months after it has been received back in the State;(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 [Commissioner of Stamps] [Substituted for 'Revenue Minister' by Act III of 2006, w.e.f. 6.1.2006.] or the Collector if empowered by the [Commissioner of Stamps] [Substituted for 'Revenue Minister' by Act III of 2006, w.e.f. 6.1.2006.] 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 and 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 restamped 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, deduction [fifteen paise] [Substituted by Act VI of 1958 for 'two annas'.] 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 stamps or stamps in money, deducting [fifteen paise] [Substituted by Act VI of 1958 for 'two annas'.] for each rupee or portion of a rupee, upon such person delivering upon the same to be cancelled, and proving to the Collector's satisfaction-(a)that such stamps 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. [ \* \* \* ] [Omitted '54A. Allowance for stamps in denominations of paise. - Notwithstanding anything contained in section 54, when any person is in possession of a stamp or stamps in any denominations other than in denominations of one rupee or multiples thereof and such stamps or stamps has or have not been spoiled, the Collector shall repay to such person the value of such stamps or stamps in money calculated in accordance with the provisions of sub-section (2) of section 14 of the Indian Coinage Act, 1906 (3 of 1906), upon such person delivering up with fifteen months from the commencement of the Jammu and Kashmir Stamp (Amendment) Act, 1958 (VI of 1958), such stamps or stamps to the Collector' by Act No. XII of 2011, dated 25th April, 2011.]**

#### **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 Government] [In section 9, 10, 16, 18, 26, 33(3), 37, 49, 57, 70(1), 75, 76-A and 78 for the words 'High Highness' the words 'the Government' substituted by Act X of 1996.] 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 holders; and(d)the alternation of the rate of interest or the dates of payment thereof.

## Chapter VI

### Reference and revision

#### **56. Control of [\* \* \*] [Omitted 'Government' by Act No. XII of 2011, dated 25th April, 2011.] and statement of case to [Commissioner of Stamps] [Substituted for 'Revenue Minister' by Act III of 2006, w.e.f. 6.1.2006.].**

(1)The powers exercisable by a Collector under Chapter IV and Chapter V and under clause (a) of the first proviso to section 26 shall in all cases be subject to the control of the [Commissioner of Stamps] [Substituted 'Government' by Act No. XII of 2011, dated 25th April, 2011.](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 [Commissioner of Stamps] [Substituted for 'Revenue Minister' by Act III of 2006, w.e.f. 6.1.2006.](3)[ Such authority after giving a reasonable opportunity of being heard to the parties concerned, shall consider.] [Substituted by Act No. XII of 2011, dated 25th April, 2011.]

#### **57. [ Revision of certain decisions of Collector regarding sufficiency of stamps. [Substituted by Act No. XII of 2011, dated 25th April, 2011.]**

(1)When as a result of mistake or otherwise any instrument is charged with less duty than leviable thereon or is held not chargeable with duty, as the case may be, by the Collector, the Commissioner of Stamps except where the matter is pending before an appellate authority under this Act, may require the concerned party to produce before him the instrument and after giving a reasonable opportunity of being heard to the party, examine such instrument whether any duty is chargeable, or any duty is less levied thereon, and order the recovery of the deficit duty, if any, from the concerned party. An endorsement shall thereafter be made on the instrument after payment of such deficit duty.(2)On failure to produce the original instrument by the party, the Commissioner of Stamps shall proceed under this section on the basis of the true copy of the instrument or an abstract of the instrument and such copy or abstract shall be deemed to be the original instrument for the purpose of this section.]

#### **58. to 60.**

[\* \* \*] [Omitted by Act No. XII of 2011, dated 25th April, 2011.]

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 High 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 judgement 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 Revenue Minister, 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 judgement under the seal of the Court and the signature of the Registrar to the Revenue Minister and other like copy to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgement.(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, 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 reference 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 purpose of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section 42.(5)Any other order made by a Court under the provision of this Act shall be appealable in the ordinary way.

## **Chapter VII**

### **Criminal Offences and Procedure**

#### **62. [ Penalty for executing, etc. instrument not duly stamped. [Substituted by Act No. XII of 2011, dated 25th April, 2011.]**

(1)Any person- who, with intention to evade the duty, executes or signs otherwise than as a witness any instrument chargeable with duty without the same being duly stamped shall be punished with imprisonment for a term which shall not be less than one month but which may extend to six months and with fine which may extend to ten thousand rupees or with both; 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 security as defined under clause (h) of section 2 of Securities Contract (Regulation) Act, 1956 (Central Act 42 of 1956), 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, secretary or other principal officer of the company, shall be punishable with fine which may extend to twenty five thousand rupees.]

#### **63. Penalty for failure to cancel adhesive stamps.**

- Any person required by section 12 to cancel an adhesive stamp, and failing to cancel such stamp in manner prescribed by that section, shall be punishable with fine which may extend to [ten thousand rupees.] [Substituted by the Act III of 2000, Section 20.]

#### **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 imprisonment for a term which shall not be less than six months but which may extend to three years or with a fine which may extend to fifty thousand rupees or with both] [Substituted 'shall be punishable with fine which may extend to ten thousand rupees' by Act No. XII of 2011, dated 25th April, 2011.]

#### **64A. [ Recovery of amount of deficit stamp duty. [Inserted by Act No. XII of 2011, dated 25th April, 2011.]**

(1) Where any person chargeable to duty under this Act is convicted of an offence under section 64 in respect of any instrument, the Court convicting such person shall in addition to executing the

punishment which may be imposed for such offence recover and pay to the Collector amount of duty, if any due under this Act from such person in respect of the instrument and the Collector shall thereupon certify by endorsement on the instrument that proper duty with which it is chargeable has been paid: Provided that if such person has paid any amount towards the duty chargeable under this Act in respect of the instrument in relation to which he has been convicted under this sub-section, the Court shall recover only the difference to make up the amount of such chargeable duty. (2) The amount recoverable under sub-section (1) shall be recovered by the Court as if it were a fine under the Code of Criminal Procedure, Samvat 1989.]

## **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 [five thousand rupees] [Substituted by Act No. XII of 2011, dated 25th April, 2011.] in amount or value, gives a receipt for an amount or value not exceeding [Forty rupees,] [Substituted for 'twenty rupees' by Act III of 2006, w.e.f. 6.1.2006.] or separates, or divides the money or property paid or delivered; shall be punishable with fine which may extend to [five times the amount of stamp duty or one thousand rupees, whichever is higher] [Substituted for 'one thousand rupees' by Act III of 2006, w.e.f. 6.1.2006.].

## **66. Penalty for not making out policy, or making one not duly stamped.**

- Any person who, - (a) receives, to 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 thousand rupees.] [Substituted by Act III of 2000, Section 23 to 25.]

## **67.**

[\* \* \*] [Omitted '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 Five thousand rupees.' by Act No. XII of 2011, dated 25th April, 2011.]

## **68. Penalty for postdating 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 [Five thousand rupees.] [Substituted by Act III of 2000 (Section 23 to 25)]

## **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 [two rupees and one rupee] [Substituted by Act III of 2000, Section 27 & 28.] adhesive stamps);shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to [ten thousand rupees] [Substituted by Act No. XII of 2011, dated 25th April, 2011.], or with both.

## **70. Institution and conduct of prosecutions.**

(1)No prosecution in respect of any offence punishable under this Act or the law relating to stamps heretofore in force shall be instituted without the sanction of the Collector or such other officer as [the Government] [In section 9, 10, 16, 18, 26, 33(3), 37, 49, 57, 70(1), 75, 76-A and 78 for the words 'High Highness' the words 'the Government' substituted by Act X of 1996.] generally, or the Collector specially, authorises in that behalf.(2)The [Government] [Substituted for Revenue Minister in section 70(2) by Act X of 1996.] 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. Omitted.] [Section 71 omitted by Act XL of 1966.]

## **72. Place of trial.**

- Every such offence committed in respect of any instrument may be tried in any district in which such instrument is found as well as in any district in which such offence might be tried under the Code of Criminal Procedure for the time being in force.

## **Chapter VIII Supplemental Provision.**

### **73. [ Books, etc. to be open to inspection. [Substituted by Act No. XII of 2011, dated 25th April, 2011.]**

- Every public officer having in his custody any registers, books, records (electronic or otherwise), papers, documents or proceedings, the inspection whereof may tend to secure any duty, 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, records (electronic or otherwise) and proceedings and to take such notes and extracts as he may deem necessary, without fee or charge and, if necessary, to seize and impound them under section 33.

### **73A. Furnishing of statement, return and information.**

(1)The Collector may, for the purpose of this Act, require any trading member of any stock exchange or an association as defined in clause (a) of section 2 of the Forward Contract (Regulation) Act, 1952 (Central Act) or any organization, institute, company or association or any person liable to pay duty under any article of the Schedule-I, to submit a statement or return or to furnish any information in respect of any transaction within such period as may be prescribed by rules.(2)Where any trading member, organization, institute company association or any other person fails to submit a statement or return or information as required under sub-section (1) within the prescribed time, the Collector, may without prejudice to any other action which is liable to be taken against such person under any other provisions of this Act, after giving an opportunity of being heard, impose on such person a penalty of a sum not exceeding rupees five thousand for such default.

### **74. Power to make rules.**

(1)The Government may, by notification in the Government Gazette, make rules to carry out generally the purposes of this Act, and such rules may provide that a breach thereof shall, on conviction, be punished with fine not exceeding five thousand rupees.(2)Without prejudice to the generality of the powers conferred by sub section (1), such rules may regulate, or provide for, all or any of the following matters, namely:-(a)the supply, sale and use of stamps and stamped papers;(b)the persons by whom alone such sale is to be conducted,(c)the duties and remuneration of such persons,(d)the manner of ascertaining the market value of immovable property and preparation of market value guidelines of immovable properties,(e)the procedure for appeal or revision proceedings; and(f)the procedure for use of franking machine or any other machine or electronic stamping for payment of stamp duty.(3)All rules made under this Act shall be made subject to the condition of previous publication in the Official Gazette:Provided that, if the Government is satisfied that circumstances exist which render it necessary to take immediate action, it may for reasons to be recorded in writing, dispense with the condition of previous publication of any rule to be made under this section.]

### **75.**

[\* \* \*] [Omitted 'Power to make rules generally to carry out Act. - The Government may make rules to carry out generally the purposes of this Act, and may be such rules prescribe the fines, which shall in no case exceed five hundred rupees, to be incurred on breach thereof.' by Act No. XII of 2011, dated 25th April, 2011.]

## 76.

[\* \* \*] [Omitted 'Publication of rules. - (1) All rules made under this Act shall be published in the Government Gazette. (2) All rules published as required by this section shall, upon such publication, have effect as if enacted by this Act.' by Act No. XII of 2011, dated 25th April, 2011.]

### **76A. Delegation of powers.**

- [The Government] [In section 9, 10, 16, 18, 26, 33(3), 37, 49, 57, 70(1), 75, 76-A and 78 for the words 'High Highness' the words 'the Government' substituted by Act X of 1996.] may by notification in the Government Gazette delegate [all or any of the powers vested in it [under sub-section (3) of section 33, section 45, sub-section(1) of section 56, sub-sections (1) and (2) of section 70 and section 74] [In Section 76-A words and figures etc., at the end within brackets substituted for clauses (a) and (b) after deletion of colon and dash by Act X of 1996.] to such officer or authority as may be specified in the notification.]

### **77. Saving as to court-fees.**

- 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. [Omitted '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 paise or, as the case may be, multiples thereof and shall, accordingly be valid for all the purposes of this Act.' by Act No. XII of 2011, dated 25th April, 2011.]**

[\* \* \*]

**78. [Omitted 'Act to be translated and sold cheaply. - The Government shall make provision for the sale of translation of this Act in the principal vernacular languages of the territories administered by it at a price not exceeding twenty-five paise per copy.' by Act No. XII of 2011, dated 25th April, 2011.]**

[\* \* \*]

## 79.

Omitted.[Schedule-I] [Substituted by Act No. XII of 2011, dated 25th April, 2011.]Stamp Duty on Instruments(See Section 3)



Article	Description of Instrument	Proper stamp duty
1	2	3
1.	ACKNOWLEDGEMENT, of a debt exceeding fivethousand rupees in amount or value, executed by or on behalf ofdebtor in any book (other than a banker's pass book) or on aseparate piece of paper when such book or paper is left in thecreditor's possession.	Ten rupees.
2.	ADMINISTRATION-BOND, including a bond givenunder section 78 of the Probate and Administration Act, or andsection 9 or section 10 of the Succession Certificate Act.	Five hundred rupees.
3.	ADOPTION DEED, that is to say, any instrument(other than a will) recording an adoption or conferring orpurporting to confer an authority to adopt.	Five hundred rupees.
4.	AFFIDAVIT, that is to say, a statement inwriting purporting to be a statement of fact, signed by theperson making it and confirmed by him on oath or, in the case ofpersons by law allowed to affirm instead of swearing, byaffirmation.	Ten rupees.
5.	Exemption ;- Affidavit or declaration in writing when made for the sole purpose of enabling any person to receive any pension or charitable allowance. AGREEMENT OR MEMORANDUM OF AN AGREEMENT. (a) If relating to the sale of bill of exchange.  (b) (i) If relating to the purchase or sale of a Government security;  (ii) If relating to the purchase or sale of shares, scrips, bonds, debentures, debenture-stocks or any other marketable security of a like nature in, or, of any incorporated company or other body corporate. (c) If not otherwise provided for. Exemptions ;- Agreement or memorandum of an agreement -	One rupee for every Rs. 10,000 or part thereof. One rupee for every Rs. 10,000 or part thereof of the value of the security at the time of its purchase or sale, as the case may be, subject to a maximum of one thousand rupees. One rupee for every Rs. 10,000 or part thereof of the value of the security at the time of its purchase or sale, as the case may be. One hundred rupees.

(a) for or relating to the sale of goods or merchandise exclusively, not being a Note or Memorandum chargeable under article 38;

(b) made in the form of tenders to the Government for, or relating to, any loan.

AGREEMENT RELATING TO DEPOSIT OF TITLE DEEDS, PAWN, PLEDGE OR HYPOTHECATION, that is to say, any instrument evidencing an agreement relating to-

6.

(a) the deposit of title deeds or instrument constituting or being evidence of the title to any property whatever (other than a marketable security), where such deposit has been made by way of security for the repayment of money, advanced or to be advanced by way of loan or an existing or future debt; or

0.25 percent of the amount secured by such deed, subject to a maximum of five lakh rupees.

(b) the pawn, pledge or hypothecation of movable property, where such pawn, pledge, or hypothecation has been made by way of security for the repayment of money advanced, or to be advanced by way of loan or an existing or future debt-

(i) If such loan or debt is repayable on demand or more than three months from the date of the instrument, evidencing the agreement;

0.50 percent of the amount secured, subject to a maximum of five lakh rupees.

(ii) If such loan or debt is repayable not more than three months from the date of such instrument.

Half the duty payable under sub-clause (i) of clause (b) of this article.

Explanation :- For the purposes of clause (a) of this article, notwithstanding anything contained in any judgment, decree or order of any court or order of any authority, any letter, note, memorandum or writing relating to the deposit of title deeds whether written or made either before or at the time when or after the deposit of title deeds is effected, and whether it is in respect of the security for the first loan or any additional loan or loans taken subsequently, such letter, note, memorandum or writing shall, in the absence of any separate agreement or memorandum of agreement relating to deposit of such title deeds, be deemed to be an instrument evidencing an agreement relating to the deposit of title deeds.

Exemptions :-

(a) Letter of hypothecation accompanying a bill of

	exchange.	
	(b) Instrument of pawn or pledge of agriculture produce if unattested.	
7.	APPOINTMENT IN EXECUTION OF A POWER, whether of trustees or of property, moveable or immovable, where made by any writing not being a will.	One hundred rupees.
8.	APPRAISEMENT OR VALUATION, made otherwise than under an order of the court in the course of a suit.	One hundred rupees.
	Exemptions :-	
	(a) Appraisal or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.	
	(b) Appraisal of crops for the purpose of ascertaining the amount to be given to a landlord as rent.	
9.	APPRENTICESHIP DEED, including every writing relating to the service or tuition of any apprentice, clerk or servant, placed with any master to learn any profession, trade or employment.	One hundred rupees.
	Exemption :-	
	Instruments of apprenticeship by which a person is apprenticed by or at the charge of any public charity.	
10.	ARTICLES OF ASSOCIATION OF A COMPANY –	
	(a) where the company has no share capital;	One thousand rupees.
	(b) where the company has nominal share capital or increased share capital.	0.15 percent of such nominal or increased share capital subject to a minimum of one thousand rupees and a maximum of five lakh rupees.
	Exemption :-	
	Articles of any Association not formed for profit and registered under the Companies Act, 1956.	
11.	AWARD, that is to say, any decision in writing by an arbitrator or umpire, on a reference made otherwise than by an order of the Court in the course of a suit, being an award made as a result of a written agreement to submit present or future differences to arbitration and not being an award directing a partition.	Ten rupees for every one thousand rupees or part thereof, of the amount or value of the property to which the award relates.
12.		

	Bill of Exchange [as defined by section 2(2)], not being a bond, bank-note or currency note, wherepayable otherwise than on demand-	
	(a) When payable not more than one year afterdate or sight;	0.06 percent for every three months or a fractional part thereof on the amount of bill, subject to a maximum of 0.24 percent.
	(b) When payable at more than one year afterdate or sight.	0.5 percent on the amount of bill.
13.	BOND, as defined by section 2(5), not being otherwise provided for by any provision of this Act, whether or not relating to particular type of bonds, or by the Court Fees Act. Exemption :- Bond when executed by any person for the purpose of guaranteeing that the total income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than as specified sum per mensem.	0.5 percent of the amount secured by such deed, subject to a maximum of five lakhs.
14.	CANCELLATION instrument of, if attested and not otherwise provided for.	One hundred rupees.
15.	CERTIFICATE OF SALE, (in respect of each property put up as a separate lot and sold), granted to the purchaser of any property sold by public auction by a Civil or Revenue Court or Collector or other Revenue Officer or an officer authorised to do so under any law for the time being in force.	The same duty as a conveyance (No.18) for a market value equal to the amount of purchase money only.
16.	CERTIFICATE OR OTHER DOCUMENT, evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body.	One rupee for every Rs. 1,000 or part thereof, of the value of shares, scrip or stock subject to a minimum of five rupees.
17.	COMPOSITION DEED, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business under the supervision of inspectors nominated by the creditors or under letters of licence for the benefit of his creditors.	Five hundred rupees.
18.		

CONVEYANCE, not being a transfer charged  
or exempted under No. 54:

- (a) Where the land or estate is within any urban area. 7% of the market value of such land or estate.
  - (b) Where the land or estate is within rural area. 5% of the market value of such land or estate.
- Provided that -
- (a) when an instrument relates to an assignment of a debt, the rate of duty applicable shall be 0.5 per cent on the amount of the debt assigned;
  - (b) where an agreement to sell an immovable property is stamped with ad valorem duty required for a conveyance and a sale deed in pursuance of such agreement is subsequently executed, the duty on such sale deed shall be the duty payable under the article less the duty already paid, subject to a minimum of Rs.100;
  - (c) where a power of attorney authorizing the agent to sell immovable property is stamped with ad valorem duty required for a conveyance and a sale deed is executed in pursuance of power of attorney between the executant of attorney and the person in whose favour it is executed, the duty on the sale deed shall be the duty payable under the article less the duty already paid, subject to a minimum of Rs.100;
  - (d) where a mortgage deed is stamped with ad valorem duty required for a mortgage under article 35 and a court decree in pursuance of a suit filed against the mortgaged property is executed, the duty payable on the decree shall be the duty payable under

the article less the duty already paid under article 35 on the mortgage deed, subject to a minimum of Rs. 100.

Explanation - For the purpose of this article, where in the case of agreement to sell an immovable property, the possession of any immovable property is transferred or agreed to be transferred to the purchaser before the execution or at the time of execution or after the execution of such agreement, then such agreement to sell shall be deemed to be a conveyance and stamp duty thereon shall be levied accordingly :

Provided that, the provisions of section 47-A shall apply mutatis mutandis to such agreement which is deemed to be a conveyance as aforesaid, as they apply to a conveyance under that section.

Exemption :-

Assignment of copyright under the Copyright Act.

- |     |   |             |
|-----|---|-------------|
| 19. | COPY OR EXTRACT, certified to be a true copy or extract by or order of any public officer and not chargeable under the law for the time being in force. | Ten rupees. |
|-----|---|-------------|

Exemptions :-

(a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose;

(b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, divorces, deaths and burials;

(c) Copy of any instrument, the original of which is not chargeable with duty.

- |     |   |                     |
|-----|---|---------------------|
| 20. | COUNTERPART OF DUPLICATE, of any instrument chargeable with duty and in respect of which the proper duty has been paid. | One hundred rupees. |
|-----|---|---------------------|

Exemption :-

Counterpart of any lease granted to a cultivator when such lease is exempted from duty.

- |     |  |                      |
|-----|--|----------------------|
| 21. | CUSTOMS BOND OR EXCISE BOND, that is to say, any bond given pursuant to the provisions of any law for the time being in force or to the directions of any officer of Customs or Excise for, or in respect of, any of the duties of Customs and Excise or for preventing frauds or evasions thereof for any other matter or | Five hundred rupees. |
|-----|--|----------------------|

- thing relating thereto.
22. DEBENTURE (whether a mortgage debenture or not), being a marketable security transferable by endorsement or by a separate instrument of transfer or by delivery. 0.05 percent per year of the face value of debenture, subject to a maximum of 0.25 percent or rupees 25 lakhs, whichever is lower.
23. DELIVERY ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling any person therein named, or his assigns or the holder thereof, to the delivery of any goods lying in any dock or port or in any ware house in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being executed by or on behalf of the owner of such goods, upon the sale or transfer of the property therein when such goods exceed in value five thousand rupees. Ten rupees.
24. DIVORCE, instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage. One hundred rupees.
25. EXCHANGE OF PROPERTY - Instrument of extract certified to be a true copy or extract by or order of any public officer and not chargeable under the law for the time being in force. The same duty as a conveyance (No.18) on the market value of the property of greater value, which is the subject matter of Exchange.
- Exemptions:-
- (a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.
- (b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, divorces, deaths and burials.
- (c) Copy of any instrument, the original of which is not chargeable with duty.
26. FURTHER CHARGE, Instrument of that is to say, any instrument imposing a further charge on mortgaged property - The same duty as a conveyance (No.18) for a market value equal to the amount of further charge secured by such instrument.
- (a) when the original mortgage is one of the description referred to in clause (a) of Article No.35 (that is with possession);
- (b) when such mortgage is one of the description referred to in clause (b) of Article No.35 (that is, without possession)-

	(i) if at the time of the execution of the instrument of further charge, the possession of the property is given or agreed to be given under such instrument;	The same duty as a conveyance (No.18) for a market value equal to the total amount of charge (including the original mortgage and any further charge already made) less the duty already paid on such mortgage and further charge.
	(ii) If possession is not so given.	The same duty as a Bond (No.13) for the amount of the further charge secured by such instrument.
27.	GIFT- Instrument of, not being a settlement (No.50) or will or transfer ( No.54).	The same duty as a conveyance (No.18) on the market value of the property, which is the subject matter of the gift.
28.	INDEMNITY BOND, that is to say, an instrument by which one person promises to save the other from loss caused to him by the conduct of promisor himself or by the conduct of any other person.	The same duty as security-bond (No.49) for the same amount.
29.	LEASE, including an under lease, or sub-lease and any agreement to let or sub let or any renewal of lease. (a) where by such lease, the rent is fixed and no premium is paid or delivered-	
	(i) where the lease purports to be for a term less than one year;	One percent for the whole amount payable or deliverable under such lease.
	(ii) where the lease purports to be for a term of not less than one year but not exceeding five years;	Two percent for the amount of average annual rent reserved.
	(iii) where the lease purports to be for a term exceeding five years but not exceeding ten years;	The same duty as a conveyance (No.18) for a market value equal to the amount or value of one and half times the average annual rent reserved.
	(iv) where the lease purports to be for a term exceeding ten years but not exceeding twenty years;	The same duty as a conveyance (No.18) for a market value equal to three times the amount or value of the average annual rent reserved.
	(v) where the lease purports to be for a term exceeding twenty years but not exceeding thirty years;	The same duty as a conveyance (No.18) for a market value equal to five times the amount or value of the average annual rent reserved.



(vi) where the lease purports to be for a period in excess of thirty years or in perpetuity or does not purport to be for a definite period;

(b) When the lease is granted for a fine or premium or money advanced or to be advanced and where no rent is fixed;

(c) where the lease is granted for a fine or premium or money advanced or to be advanced in addition to rent fixed.

The same duty as a conveyance (No.18) for a market value equal to ten times the amount or value of the average annual rent reserved.

The same duty as a conveyance (No.18) for a market value equal to the amount or value of such fine or premium or advance as set forth in the lease.

The same duty as conveyance (No.18) for a market value equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease, if no fine or premium or advance has been paid or delivered:

Provided also that-

(a) when an instrument of agreement to lease is stamped with the ad valorem stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed one hundred rupees;

(b) where a decree or final order of any Civil Court in respect of a lease is stamped with ad valorem duty required for a lease and an instrument of lease is subsequently executed, the duty on such lease deed shall be the duty payable under the article less the duty already paid, subject to a minimum of hundred rupees;

**Exemption :-** Lease and its counter part executed in case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink) without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average

	annual rent reserved does not exceed one thousand rupees.	
30.	LETTER OF ALLOTMENT OF SHARES, in any company or proposed company or in respect of any loan to be raised by any company or proposed company.	Ten rupees.
31.	LETTER OF CREDIT, that is to say, any instrument by which one person authorizes another to give credit to the person in whose favour it is drawn.	Ten rupees.
32.	LETTER OF GUARANTEE, that is to say, any instrument by which a person makes him answerable for the debtor default of another.	Five hundred rupees.
33.	LETTER OF LICENCE, that is to say, any agreement between a debtor and his creditors that the latter shall for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.	Five hundred rupees.
34.	MEMORANDUM OF ASSOCIATION OF A COMPANY - (a) If accompanied by articles of association under the Companies Act 1956 (Central Act of 1 of 1956);  (b) If not so accompanied.	Five hundred rupees.  The same duty as is chargeable on Articles of Association under Article 10, according to the share capital of the company.
	Exemption :- Memorandum of any association not formed for profit and registered under the Companies Act, 1956.	
35.	MORTGAGE-DEED, not being an agreement relating to the deposit of title deeds, pawn or pledge (No.6), Mortgage of a crop (No.36), or a Security Bond (No.49) - (a) when possession of the property or any part of the property comprised in such deed is given by mortgagor or agreed to be given;  (b) when possession is not given or agreed to be given as aforesaid.	The same duty as a conveyance (No.18) for a market value equal to the amount secured by such deed.  0.5 percent of the amount secured by such deed, subject to a maximum of ten lakhs.
	Explanation- A mortgagor who gives to the mortgagee a power of attorney to collect rents of a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article.	
	(c) When a collateral or auxiliary or additional or	Five hundred rupees.

- substituted security, or by way of further assurance for the above mentioned purpose, where the principal or primary security is duly stamped.
- MORTGAGE OF A CROP**, including any instrument evidencing an agreement to secure the
36. repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage. Ten rupees.
- NOTARIAL ACT**, that is to say, any instrument, endorsement, note, attestation, certificate or entry not being a protest (No. 44) executed by a
37. Notary public in the execution of the duties of his office, or by any other person lawfully acting as a Notary public. Ten rupees.
- NOTE OR MEMORANDUM**, sent by a broker or agent to his principal intimating the purchase or sale on account of such principal -
38. (a) of any goods exceeding in value one thousand rupees; One rupee for every Rs. 10,000 or part thereof, of the value.
- (b) of any share, scrip, stock, bond, debenture, debenture-stock or other marketable security of like nature exceeding in value one thousand rupees, not being a Government Security; One rupee for every Rs. 10,000 or part thereof, of the value of security.
- (c) of a Government Security. One rupee for every Rs. 10,000 or part thereof of the value of the security, subject to maximum of one thousand rupees.
39. **PARTITION** - Instrument of. Two percent of the amount of the market value of the separated share or shares of the property.
- Note- The largest share remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than any of the other share, then one of such equal shares) shall be deemed to be that from which the other shares are separated:
- Provided that -
- (a) when an instrument of partition containing an agreement to divide property in severalty is

executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such a partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than one hundred rupees;

(b) where the instrument relates to the partition of agricultural land exclusively, the market value for the purpose of duty shall be calculated at hundred times the annual land revenue;

(c) where a final order for effecting a partition passed by any Revenue authority or Civil Court or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed one hundred rupees.

40. PARTNERSHIP

A. Instrument of -

(a) where there is no share of contribution in partnership or where such share of contribution does not exceed Rs. 50000;

One thousand rupees;

(b) where such share of contribution is in excess of Rs. 50000.

Two percent of the value or amount of shares contributed, subject to a maximum of rupees five thousand.

B. Dissolution of partnership or retirement of a partner or -

(a) Where on dissolution of partnership or on retirement of a partner, any immovable property is taken as his share by a partner other than a partner who brought in that property as his share of contribution in the partnership;

The same duty as a conveyance (No. 18) on the market value of such property;

	(b) In any other case.	Five hundred rupees.
41.	<b>POLICY OF INSURANCE-</b>	
	<b>A. FIRE INSURANCE AND OTHER CLASSES</b>	
	OF INSURANCE, not elsewhere included in this article, covering goods, merchandise, personal effects, crops and other property against loss or damage-	
	(1) in respect of original policy;	Ten rupees.
	(2) in respect of each receipt for any payment of a premium on any renewal of an original policy.	One half of the duty payable in respect of the original policy in addition to the amount, if any, chargeable under Article No. 54.
	<b>B. ACCIDENT AND SICKNESS-INSURANCE-</b>	
	(1) in respect of an original policy-	
	(i) against accident on any conveyance valid for a single journey or voyage only;	Ten rupees.
	Exemption- When issued to a passenger traveling by the second class in any railway.	
	(ii) against accident valid for more than a single journey or voyage or sickness.	Ten paise for every Rs. 1,000 or part thereof of maximum amount which may become payable under it, subject to a minimum of ten rupees:
	Provided that, in case of a policy of insurance against death by accident when the annual premium payable does not exceed Rs. 2.50 per Rs. 1,000, the duty on such instrument shall be five paise for every Rs. 1,000 or part thereof, the maximum amount which may become payable under it.	
	(2) in respect of each receipt for any payment of a premium on any renewal of an original policy.	One half of the duty payable in respect of the original policy in addition to the amount, if any, chargeable under Article No. 54.
	<b>C. INSURANCE BY WAY OF INDEMNITY</b>	
	against liability to pay damages on account of accidents to workmen employed by or under the insurer or against liability to pay compensation under the workmen compensation Act, 1923 -	
	(1) in respect of original policy;	Ten paise for every Rs. 100 or part thereof payable as premium.
	(2) in respect of each receipt for any payment of a premium on any renewal of an original policy.	One half of the duty payable in respect of the original policy in

addition to the amount, if any, chargeable under Article No. 46.

D. LIFE INSURANCE OR GROUP INSURANCE OR OTHER INSURANCE NOT SPECIFICALLY PROVIDED FOR except such RE-INSURANCE as is described in Division E of this article.

Exemption- Policies of life insurance granted by the Director General of Post-Offices in accordance with rules for Postal life Insurance issued under the authority of the Central Government.

Twenty paise for every Rs. 1,000 or part thereof, subject to a minimum of ten rupees.

[N.B.- If a policy of group insurance is renewed or otherwise modified whereby the sum insured on which stamp duty has been paid, the proper stamp must be borne on the excess sum so insured.]

E. RE-INSURANCE BY AN INSURANCE COMPANY, which has granted a policy of the nature specified in Division A or Division B of this Article, with another company by way of indemnity or guarantee against the payment on the original insurance of a certain part of the sum insured thereby.

Ten rupees.

General Exemption

Letter of cover or engagement to issue a policy of insurance:

Provided that, unless such letter or engagement bears the stamp prescribed by this Act for such policy, nothing shall be claimable thereunder, nor shall it be available for any purpose, except to compel the delivery of the policy therein mentioned.

42. POWER OF ATTORNEY, [as defined by Section 2(21)], not being a proxy (No. 45) –

(a) when authorizing one person or more to act in a single transaction, including a power of attorney executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents;

One hundred rupees.

(b) when authorizing one person to act in more than one transaction or generally, or not more than ten persons to act jointly or severally in more than one

One hundred rupees.

transaction or generally;

(c) when given for consideration and authorizing the agent to sell any immovable property;

(d) when given without consideration to a person other than the father, mother, wife or husband, son or daughter, brother or sister in relation to the executant and authorising such person to sell immovable property situated in Jammu and Kashmir.

(e) in any other case.

Explanation I- For the purpose of this article, more persons than one when belonging to the same firm shall be deemed to be one person.

Explanation II- The term 'registration' includes every operation incidental to registration under the Registration Act, Samvat 1977.

43. PROMISSORY NOTE, [as defined by Section 2 (22)]

(a) When payable on demand;

(b) When payable otherwise than on demand.

The same duty as a conveyance (No. 18) on the market value of the property.

The same duty as a conveyance (No. 18) on the market value of the property which is the subject matter of power of attorney.

One hundred rupees for each person authorised.

Rs. 10/-

One fifth of the duty as applicable to a Bill of Exchange (No. 12) for same amount payable otherwise than on demand, subject to a minimum of ten rupees.

44. PROTEST OF BILL OR NOTE, that is to say, any declaration in writing made by a Notary public, or other person lawfully acting as such, attesting the dishonour of a Bill of Exchange or Promissory Note.

Ten rupees.

45. PROXY empowering any person to vote at any one election of the members of a local authority, or at any one meeting of (a) members of an incorporated company or other body corporate whose stock or funds is or are divided into shares and transferable, (b) a local authority, (c) proprietors, members or contributors to the funds of any institution or (d) creditors.

Ten rupees

46. RECEIPT as defined by Section 2(23) for any money or other property the amount or value of which exceeds one hundred rupees.

Two rupees.

Exemptions

Receipt-

(a) endorsed on or contained in any instrument duly

stamped or any instrument exempted under the proviso to Section 3 (instruments executed on behalf of the Government) or any cheque or bill of exchange payable on demand acknowledging the receipt of the consideration money, interest or annuity or other periodical payment thereby secured;

(b) for any payment of money without consideration;

(c) for any payment of rent by a cultivator on account of land assessed to Government revenue;

(d) for pay or allowances by non-commissioned officers or soldiers of the army, when serving in such capacity, or by mounted police constables;

(e) given by holders of family certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned officer, soldier and serving in such capacity;

(f) for pensions or allowances by persons, receiving such pensions or allowances in respect of their service as such non-commissioned officers or soldiers and not serving the government in any other capacity;

(g) given by a headman or lambardar for land revenue or taxes collected by him;

(h) given for money or securities for money deposited in the hands of any banker to be accounted for:

Provided that the same is not expressed to be received of, or by the hands of, any other than the person to whom the same is to be accounted for:

Provided also that this exemption shall not extend to a receipt or acknowledgement for any sum paid or deposited for or upon a letter of allotment of a share, or in respect of a call upon any scrip or share of, or in, any incorporated company or other body corporate or such proposed or intended company or body or in respect of a debenture being a marketable security.

- |     |   |   |
|-----|---|---|
| 47. | RECONVEYANCE OF MORTGAGED PROPERTY. RELEASE, that is to say, any instrument (not being such a release as is provided for by section 23A) whereby a person renounces a claim upon another person, or against any specified property. | Five hundred rupees.  |
| 48. | SECURITY BOND OR MORTGAGE DEED, where such security bond or mortgage deed is executed by way  | Two percent on the market value of the share of the property over which the claim is relinquished, whichever is higher. |
| 49. |   | Five hundred rupees.  |



of security for the due execution of an office or to account for money or other property received by virtue thereof, or is executed by a surety to secure the due performance of a contract, or in pursuance of an order of the Court or public officer, not being otherwise provided for by the Court Fees Act.

Exemptions -

Bond or other instrument, when executed-

(a) by any person for the purpose of guaranteeing that the local income derived from private subscriptions on a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem;

(b) by person taking advances under the agriculturist loans or by their sureties as security for the repayment of such advances;

(c) by officers of the Government or their sureties to secure the due execution of an office or the due accounting for money or other property received by virtue thereof.

50. SETTLEMENT -

A. INSTRUMENT OF (including a deed of dower).

Two percent of the amount of market value of the property settled:

Provided that, where an agreement to settle is stamped with the stamps required for an instrument of settlement and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed one hundred rupees.

Exemption :-

Deed of dower executed on the occasion of or in connection with the marriage between Mohammedans, whether the deed was executed before or after the marriage.

B. REVOCATION OF.

Five hundred rupees.

51. SHARE WARRANTS, to bearer issued under the Companies Act.

The same duty as a conveyance (No. 18) for a market value equal to the nominal amount of the shares

specified in the warrant.

**Exemption :-**

Share warrant when issued by a Company in pursuance of the Companies Act, to have effect only upon payment, as composition for that duty to the Collector of Stamp-revenue, of-

(a) one and a half per centum of the whole subscribed capital of the company; or

(b) if any company which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital-one and a half per centum of the additional capital so issued.

52. SHIPPING ORDER, for or relating to the conveyance of goods on board of any vessel.

Ten rupees.

53. SURRENDER OF LEASE,

Five hundred rupees.

Explanation- For the purposes of this article it is immaterial that the surrender of the lease is only as regards the unexpired part of the term, or is with regard to only a portion of the property.

Exemption - Surrender of lease, when such lease is exempted from duty.

54. TRANSFER- (Whether with or without consideration)

(a) of shares in an incorporated company or other body corporate;

Twenty five paise for every hundred rupees or part thereof of the value of the shares.

(b) of debentures, being marketable securities, whether the debenture is liable to duty or not;

Fifty paise for every hundred rupees or part thereof of the consideration amount of debentures.

(c) of any interest secured by a bond, mortgaged deed or policy of insurance;

The same duty as a Bond (No. 13) for such amount of value of the interest subject to a maximum of five hundred rupees.

**Exemption :-**

Transfers by endorsement-

(a) of a bill of exchange, cheque or promissory note;

(b) of a delivery order, warrant for goods, or other mercantile document of title to goods;

(c) of a policy of insurance;

(d) of securities Government of India.

- |     |   |   |
|-----|---|---|
| 55. | TRANSFER OF LEASE, by way of assignment and not by way of under lease.  | <p>The same duty as a conveyance (No. 18) on the market value of the property which is the subject matter of the transfer.</p> <p>Explanation- In case of assignment of a mining lease, the market value shall be equal to the amount or value calculated under article 29 depending upon the period of the lease assigned.</p> |
|     | <p>Exemption :-</p> <p>Transfer of any lease exempt from duty.</p>  |   |
| 56. | <p>TRUST -</p> <p>A. DECLARATION OF – of, or concerning any property when made by any writing not being a will</p> <p>(a) where there is disposition of property;</p> <p>(b) in any other case;</p> <p>B. REVOCATION OF, or concerning any property when made by any instrument other than a will.</p> <p>WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named, or his assigns or the holder thereof to the property in any</p> | <p>Two percent of the market value of the property settled.</p> <p>Five hundred rupees.</p> <p>Five hundred rupees.</p>   |
| 57. | <p>goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.</p>   | <p>Ten rupees.</p>  |
| 58. | Entry as an Advocate of the High Court  | <p>One thousand rupees.</p>   |