::-- Comparative chart of Existing and Proposed provisions. --::

Sec. No.	Existing Provisions	Proposed Provisions
2.	**Definitions :-**	**2. Definitions:-**
	In this Act, unless there is something repugnant in the subject or context :-	***In this Act, unless the context otherwise requires :-***
	(1) **"Banker" includes a bank and any person acting as a banker;**	(1) ***"Association" means any association, exchange, organization or body of individuals, whether incorporated or not, established for the purpose of regulating and controlling business of the sale or purchase of, or other transactions relating to, any goods or marketable securities;***
		(1A) ***"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;***
	(5) "**Bond**" includes-	(5) "**Bond**" includes-
	(a) any instrument whereby a person obliges himself to pay money to another on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be;	(i) 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	(ii) 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.	(iii) 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 some other person sign the instrument in the presence and by the direction of the executant or has received from the executant a 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.

(6) "**Chargeable**" means, as applied to an instrument, executed or first executed after the commencement of this Act, chargeable under this Act, and as applied to any other instrument, chargeable under the law in force in **India** when such instrument was executed or where several persons executed the instrument at different times, first executed.

(6) "**Chargeable**" means, as applied to an instrument, executed or first executed after the commencement of this Act, chargeable under this Act, and as applied to any other instrument, chargeable under the law in force in ***the territories to which this Act extends*** when such instrument was executed or where several persons executed the instrument at different times, first executed.

(8) -----

(8) **"Chief Controlling Revenue Authority" means such officer as the State Government or the Central Government, as the case may be, may, by notification in the Official Gazette, appoint in this behalf, for the whole or any part of the State or the Union Territory.**

(8A) ***"Clearance List" means a list of transactions relating to contracts required to be submitted to the clearing house of an association in accordance with the rules or bye -laws of the association :***

Provided that no instrument shall for the purpose of this Act, be deemed to be a clearance list unless it contains the following declaration signed by the person dealing in such transaction or on his behalf by a properly constituted attorney, namely-

"I/We hereby solemnly declare that the above list contains a complete and true statement of my/our transactions including crossed out transactions and transactions required to be submitted to the clearing house in accordance with the rules/bye-laws of the association. I/We further declare that no transaction for which an exemption is claimed under Article 5 or Article 41 in the Schedule, as the case may be, is omitted.

Explanation- Transaction for the purpose of this clause shall include both sale and purchase.

(9) "**Collector**" :-

(a) **means with in the limits of the towns of Calcutta,**

(9) **"Collector" means the chief officer incharge of revenue administration of a district and includes any officer whom the State Government or the**

Madras and Bombay, the Collector of Calcutta, Madras and Bombay respectively and without those limits, the Collector of a district; and

(b) **includes a Deputy Commissioner and any officer whom the State Government may, by notification in the official Gazette, appoint in this behalf;**

(10) "**Conveyance**" **includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred inter vivos and which is not otherwise specifically provided for by Schedule 1 or by 1-A, as the case may be;**

(11) "**Duly Stamped**" as applied to an instrument means that the instrument bears an adhesive or impressed stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with the law for the time being in force in **India.**

Central Government, as the case may be, may, by notification in the Official Gazette, appoint in this behalf and on whom any or all powers of the Collector under the Act are conferred by the same notification or any other notification;

(10) **"Conveyance" includes-**

(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 in respect of the amalgamation or reconstruction of companies; and every order made by the Reserve Bank of India under section 44 A of the Banking Regulation Act, 1949 in respect of amalgamation or reconstruction of Banking Companies;

(iv) 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-1;

Explanation:- An instrument, whereby a co-owner of any property transfers his interest to another co-owner of the property and which is not an instrument of partition, is for the purposes of this clause, an instrument by which the property is transferred.

(11) "**Duly Stamped**" as applied to an instrument means that the instrument bears a stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with the law for the time being in force in ***the territories to which this Act extends.***

(12) "**Executed**" and "**Execution**" used with reference to instruments, mean "signed" and "signature";	(12) **"Executed" and "Execution" used with reference to instruments, mean "signed" and "signature", and includes attribution of electronic record as per section 11 of the Information Technology Act, 2000 (21 of 2000);**
-----	(12A) ***"Government Security" means a Government security as defined in the Public Debt Act, 1944.(18 of 1944)***
	(12B) ***"Immovable Property" includes land, buildings, hereditary allowances, rights to way, light, ferries, fisheries or any other benefit to arise out of land and things attached to the earth or anything permanently fastened to any thing attached to the earth but does not include standing timbers, growing crops or grass.***
	Explanation- Any plant and machinery, when fixed in a factory even in the removable condition, if sold with the intention of running the factory shall constitute immovable property for the purposes of this clause.
(13) "**Impressed Stamp**" includes-	(13) "**Impressed Stamp**" includes-
(a) labels affixed and impressed by the proper officer; and	(i) labels affixed and impressed by proper officer;
(b) Stamps embossed or engraved on stamp papers; and	(ii) stamps embossed or engraved on stamp papers; and
	(iii) ***impression by a franking machine or any other machine as the Government may, by notification in the Official Gazette, specify.***
(13-A) **"India" means the territory of India excluding the State of Jammu and Kashmir;**	Omitted.
(14) **"Instrument" includes every document by which any right or liability is or purports to be created transferred, limited, extended, extinguished or recorded;**	(14) ***"Instrument" includes every document and every electronic record as defined under clause (t) of Section 2 of the Information Technology Act, 2000 (21 of 2000) by which any right or liability is or purports to be created, transferred, limited, extended, extinguished or recorded; and any other document mentioned in the Schedule-1;***

(15) "**Instrument of partition**" means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any Revenue Authority or any Civil Court and an award by an arbitrator directing the partition;

(16) "**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; and

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

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(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--

(i) a final order for effecting a partition passed by any Revenue Authority or any Civil Court.

(ii) an award by an arbitrator directing the partition; **and**

(iii) when any partition is effected without executing any such instrument, any instrument or instruments, 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**" means a lease of immovable **or movable or both** property, and includes also;

(i) a patta;

(ii) 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.

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

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

(vi) ***any agreement to lease; and***

(vii) ***a decree or final order of any civil court or revenue court in respect of a lease.***

(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 specified in***

	this Act or rules made thereunder or the consideration stated in the instrument whichever is higher;
(16-A) "**Marketable security**" means a security of such a description as to be capable of being sold in any stock market in India or **United Kingdom**;	(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****;*
-----	(17A) ***"Movable Property" includes standing timber, growing crops, and grass, fruit upon and juice in the trees and property of every other description, except immovable property;***
(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;	(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 a legal practitioner, is authorised to appear on behalf of any party in any proceeding before any court, tribunal or authority;***
-----	(22A) ***"Public officer" means a public officer as defined in clause (17) of section 2 of the Code of Civil Procedure 1908(5 of 1908);***
(25) "**Soldier**" includes any person below the rank of non-commissioned officer who is enrolled under the **Indian Army Act, 1911 (VIII of 1911).**	(25) "**Soldier**" includes any person below the rank of non-commissioned officer who is enrolled ***under the Army Act, 1950 (46 of 1950);***
3. Instruments chargeable with duty-	3. **Instruments chargeable with duty-**
Subject to the provisions of this Act and the exemptions contained in the Schedule I, the following instruments shall be chargeable with duty of the amount indicated in that Schedule as the proper duty therefore respectively, that is to say,-	Subject to the provisions of this Act and the exemptions contained in the Schedule-1, the following instruments shall be chargeable with duty of the amount indicated in that Schedule as the proper duty therefor respectively, that is to say,-
(a) every instrument mentioned in the Schedule which not having been previously executed by any person, is executed in India on or after the **first day of July, 1899;**	(a) every instrument mentioned in the Schedule which not having been previously executed by any person, is executed in India on or after the date of commencement of this Act;
(b) every bill of exchange payable otherwise than on demand	(b) every bill of exchange payable otherwise than on demand or promissory note drawn or made out of

or promissory note drawn or made out of India on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated in India; and

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

Provided that no duty shall be chargeable in respect of -

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

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

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

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

India on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated in **the territories to which this Act extends**; and

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

Provided that when no proper duty has been paid on the original of an instrument which is chargeable to duty with an amount indicated in the Schedule-1 as the proper duty therefor, then 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 the Schedule-1 as the proper duty for the original of such instrument:

Provided further that no duty shall be chargeable in respect of -

(a) 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 **or where the Government has undertaken to bear the stamp duty**;

(b) any instrument for the sale, transfer or other disposition, either absolutely or by way of mortgage or otherwise, of any ship or vessel, or any part, interest, share or property of or in any ship or vessel registered under the **Bombay Coasting Vessels Act, 1838, or the Merchant Shipping Act, 1958: [44 of 1958]**

4. Several instruments used in a single transaction of sale mortgage or settlement -	**4. Several instruments used in a single transaction -**
(1) Where in the case of any sale, mortgage or settlement, several instrument are employed for completing the transaction, the principal instrument shall be chargeable with a duty prescribed for it in the Schedule I for the conveyance, mortgage or settlement and each of the other instruments shall be chargeable with a duty ***of one rupees*** instead of the duty (if any) prescribed for it in that Schedule.	(1) **Several instruments used in a single transaction.- (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-1 and each of the other instruments shall be chargeable with a duty of one hundred rupees instead of the duty (if any) prescribed for it in that Schedule";**
(2) The parties may determine for themselves which of the instruments so employed shall, for the purpose of sub-section (1), be deemed to be the principal instrument:	(2) The parties may determine for themselves which of the instruments so employed shall, for the purpose 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.	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, so employed.
6. Instruments coming within several descriptions in the Schedule I -	**6. Instruments coming with in several descriptions in the Schedule -**
Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the descriptions in the Schedule 1, or in Schedule 1-A, as the case may be, shall where the duties chargeable thereunder are different, be chargeable only with the highest of such duties;	Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the descriptions in the Schedule, 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 rupee and fifty paise a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty bas been paid, unless it falls within the provisions of section 6-A.	
8. Bonds, debentures or other securities issued on loans under Act 11 of 1879-	Omitted
(1) Notwithstanding anything contained in this Act, any local authority raising a loan under the provisions of the Local Authorities Loan Act, 1879, (XI of 1879) or of any other law	

for the time being in force, by the issue of bonds, debentures or other securities shall, in respect of such loan, be chargeable with a duty of one percentum on the total amount of the bonds, debentures or other securities issued by it, and such bonds, debentures or other securities need not be stamped and shall not be chargeable with any further duty on renewal, consolidation, sub-division or otherwise.

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

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

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

9. Power to reduce, remit or compound duties -

(1) The Government, may, by rule or order published in the Official Gazette,;-

(a) reduce or remit, whether prospectively or retrospectively, in the whole or any part of the territories under its administration, the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favor of any particular class of persons, or by or in favor of any member of such class, are chargeable; and

9. Power to reduce, remit or compound duties -

(1) The Government**, if satisfied that it is necessary to do so in the public interest,** may, by rule or order published in the Official Gazette,;-

(a) reduce or remit, whether prospectively or retrospectively, in the whole or any part of the territories under its administration, the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favor of any particular class of persons, or by or in favor of any member of such class, are chargeable; and

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

(2) In this section the expressions "the Government" means :-

(a) in relation to stamp duty in respect of bills of exchange, cheuqes, promissory notes, bill of lading, letter of credit, policies of insurance, transfer of shares, debentures, proxies and receipt, and in relation to any other stamp duty chargeable under this Act and falling within entry 91 in List I in the Seventh Schedule to the Constitution, except the subject matters referred to in clause (b) of sub-section (1), the Central Government;

(b) save as aforesaid, the State Government.

10. Duties how to be paid -

(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) according to the provisions herein contained; or

(b) when no such provision is applicable thereto, as the State Government may by rules direct:

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

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

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

(c) in the case of bills of exchange or promissory notes- the size of the paper on which they are written;

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

(2) In this section the expressions "the Government" means :-

(a) in relation to stamp duty in respect of bills of exchange, cheuqes, promissory notes, bill of lading, letter of credit, policies of insurance, transfer of shares, debentures, proxies and receipt, and in relation to any other stamp duty chargeable under this Act and falling within entry 91 in List I in the Seventh Schedule to the Constitution, except the subject matters referred to in clause (b) of sub-section (1), the Central Government;

(b) save as aforesaid, the State Government.

10. Duties how to be paid. 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) according to the provisions herein contained; or

(b) when no such provision is applicable thereto, as the State Government may by rule prescribe:

(2) The rules made under 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;

(e) the use and procedure of electronic

stamping;

(3) Subject to the rules made under sub-section (2), the State 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) Notwithstanding any thing contained in Sub-section (1), 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 the proper officer notified by the Government in this behalf;

(5) Notwithstanding any thing contained in this Section,, 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 State 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 (1), it can do so by an order published in this behalf in the official Gazette.

(6) An impression or endorsement made on an instrument under Sub-sections (3), (4) and (5) shall have the same effect as if 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).

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10-A Recovery of duty by stock exchange etc.- Notwithstanding anything contained in this Act, in case of transactions through the stock exchange or an association as defined in clause (a) of Section 2 of the Forward Contracts (Regulation Act, 1952 (74 of 1952), the stock exchange or an association, as the case may be, shall collect the proper stamp duty by deducting the same from the trading member's account at the time of settlement of such transactions. The stamp duty so collected shall be transferred to the Government Treasury or Sub-Treasury in the manner specified by the State Government.

Explanation- For the purposes of this Section, "stock exchange means the stock exchange as defined in clause (f) of Section 2 of the Securities Contract (Regulation) Act, 1956 (42 of 1956).

11. Use of adhesive stamps-

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

(a) **Instruments chargeable with a duty not exceeding ten naye paise, except parts of bill of exchange payable otherwise than on demand and drawn in sets;**

(b) **bill of exchange, and promissory notes drawn or made out of India;**

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

(d) **notarial acts; and**

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

11. Use of adhesive stamps-

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

(a) acknowledgement (Art. 1);
(b) articles of association (Art. 10);
(c) bill of lading (Art. 13);
(d) certificates (Art. 20);
(e) delivery order in respect of goods (Art. 29);
(f) letter of allotment of shares (Art. 36);
(g) letter of credit (Art. 37);
(h) notarial act (Art. 43);
(i) note or memorandum (Art.44);
(j) note of protest by master of a ship (Art. 45);
(k) policy of insurance (Art. 48);
(l) protest of bill or note (Art. 51);

(m) protest by the master of a ship (Art. 52);

(n) proxy (Art. 53);

(0) receipt (Art. 54);

(p) transfer of shares [Art. 64(a)] ; and

(q) warrant for goods (Art. 67).

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 can not be used or applied to any other instrument .

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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 can not be used or applied to any other instrument.

Explanation 1- 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 the sheet is attached to another sheet on which the instrument is written .

Explanation 2- 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 paper subjoined and such plain paper shall be signed by the executant or the executants, as the case may be.

14-A. ***Alterations in instruments how to be charged -***

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. Instrument written contrary to section 13 or 14 deemed unstamped-

Every instrument written in contravention of section 13 or section 14 shall be deemed to be unstamped.

15. Instrument written contrary to section 13, 14 or 14-A deemed unduly stamped -

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

17. Instruments executed in India -

All instruments chargeable with duty and executed by any person in **India** shall be stamped before or at the time of execution:

17. Instruments executed in the State.

All instruments chargeable with duty and executed by any person in ***the territories to which this Act extends*** shall be stamped before or at the time of execution **or immediately thereafter:**

Provided that the clearance list may be stamped, by an officer authorized by the State Government by rules made by that Government in this behalf, if such clearance list is submitted for stamping by the clearance house of an association, with the requisite amount of stamp duty, within two months from the date of its execution.

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

(1) **Every instrument chargeable with duty executed only out of India, and not being a bill of exchange or promissory note, may be stamped within three months after it has been first received in India.**

(2) Where any such instrument can not with reference to the description of stamp prescribed therefore, 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 State Government may by rule prescribe, with a stamp of such value as the person so

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

(1) Every instrument chargeable with duty executed only out of India, and not being a bill of exchange or promissory note, may be stamped within three months after it has been first received in **the territories to which this Act extends.**

(2) Where any such instrument can not with reference to the description of stamp prescribed therefore, 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 State Government may by rule

taking such instrument may require and pay for.

19. Bill and notes drawn out of India -

The first holder in India of any bill of exchange payable otherwise than on demand or promissory note drawn or made out of India shall, before he presents the same fore acceptance or payment, or endorses, transfers or otherwise negotiates the same in India affix thereto the proper stamp and cancel the same .

Provided that -

(a) if, at the time any such bill of exchange or note comes into the hands of any holder thereof in India, the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section 12, and such holder has not 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 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.

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prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

19. Bill and notes drawn out of India -

The first holder in **the territories to which this Act extends** of any bill of exchange payable otherwise than on demand or promissory note drawn or made out of India shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in **the territories to which this Act extends** affix thereto the proper stamp and cancel the same .

Provided that -

(a) if, at the time any such bill of exchange or note comes into the hands of any holder thereof in **the territories to which this Act extends**, the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section 12, and such holder has not 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 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.

19-A Payment of duty on certain instruments or copies there of, liable to increased duty in the States -

(1) Where any instrument mentioned in the Schedule and relating to any property situate or to any matter or thing done or to be done in a particular State is executed out of that State and subsequently such instrument or a copy of the instrument is received in that particular State-

(a) the amount of duty chargeable on such instrument or a copy of the instrument shall be the amount of duty chargeable on it in that particular State less the amount of

duty, if any, already paid under any law in force in territories to which this Act extends on such instrument when it was executed.

(b) **such instrument or the copy of the instrument, as the case may be, shall , in addition to the stamps, if any, already affixed thereto be stamped with the stamps necessary for the payment of the amount of duty chargeable on it under clause (a) in the same manner and at the same time and by the same person as though such instrument or the copy of such instrument, as the case may be, was an instrument received in that particular State for the first time at the time when it became chargeable with the higher duty.**

(2) **The provisions of this Act and the rules made thereunder, in so far as they relate to the recovery of duties chargeable on instruments and copies thereof under Section 3 shall, so far as may be, applicable to recovery of duties under this Section.**

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

Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or encumbrance upon the property or not, such debt, money or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with ad valorem duty;

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in **Article No. 18** of Schedule 1-A.

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

Where any property is transferred to any person -

(a) in consideration , wholly or in part , of any debt due to him , or

(b) subject either certainly or contingently to the payment or transfer ***to him or any other person o***f any money or stock, whether being or constituting a charge or encumbrance 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 advalorem duty:

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in ***Article No.19*** of the Schedule.

Explanation - **In the case of a sale of property** subject to a mortgage or other encumbrance, any unpaid mortgage 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 any 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.1000. A sells a property to B, the consideration being Rs.500 and the release of the previous debt of Rs.1000.Stamp duty is payable on Rs1500.

(2) A sells a property to B for Rs.500. **which is** subject to a mortgage to C for Rs.1000 and unpaid interest of Rs.200. Stamp duty is payable on Rs.1700.

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

26. Stamp where value of the subject matter is indeterminate-

Where the amount or value of the subject- matter of any instrument chargeable with advalorem duty, cannot be, or (in the case of instrument executed before the commencement of this Act) could not have been, ascertained at the date of its execution or first execution, nothing shall been claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the

Explanation- ***Where property is sold and sale is*** subject to a mortgage or other encumbrance, 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, ***whether or not the purchaser expressly undertakes with the seller to pay the same or to indemnify the seller, if the seller has to pay the same:***

Provided that where any 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.1000. A sells a property to B, the consideration being Rs.500 and the release of the previous debt of Rs.1000.Stamp duty is payable on Rs.1500.

(2) A sells a property to B for Rs.500. ***The property is*** subject to a mortgage to C for Rs.1000 and unpaid interest of Rs.200. ***The sale is subject to the mortgage***. Stamp duty is payable on Rs.1700.

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

26. Stamp where value of the subject matter is indeterminate -

Where the amount or value of the subject- matter of any instrument chargeable with advalorem duty, cannot be, ascertained at the date of its execution or first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date 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 rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp duty-

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

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

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

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of such execution have been sufficient:

Provided that, ***subject to the provisions of next succeeding section*** in the case of the lease of a mine in which royalty or a share of the produce is received as rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp duty-

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

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

Provided ***further*** that, where proceedings have been taken in respect of an instrument under section 33 or 42, the amount certified by the Collector shall be deemed to be the stamp actually used at the date of execution.

26-A. Special provision to re-assess stamp duty on instruments of mining leases.

Where an instrument of a mining lease is made chargeable with duty in accordance with the provisions given in clause (a) of first proviso to section 26 or on the basis of dead rent set forth in the instrument at the time of its execution, the Collector may suomotu, 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 produce 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.

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

The consideration (if any), the market value and all other facts affecting the chargeability of any instrument with duty, or the amount of duty with which it is chargeable shall be fully and truly set forth therein.

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

(1) The consideration (if any), the market value and all other facts affecting the chargeability 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 advalorem duty on the market value of the property, and not on the value set forth, the instrument shall fully and truly setforth the annual land revenue in the case of land revenue paying land, the annual rental or gross assets if any in the case of other immoveable property, the local rates, municipal or other taxes if any, to which such property may be subject and any other particulars which may be prescribed by rules made under this Act.

(3) ***A registering officer appointed under Section 6 of the Registration Act, 1908 (16 of 1908) 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 with in respect of such instrument.***

27-A. *Fixation of market value guidelines -*

Subject to rules made in this behalf, the State 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 48 of instruments involving immovable properties.

28. Direction as to duty in respect of certain conveyances -

(1) When 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 thinks fit;

Provided that distinct consideration 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 consideration.

(2) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or be any person for himself and others, or wholly for others, is conveyed in parts be 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 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 advalorem duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(4) Where a person having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the whole, or any part thereof, to any other person or persons and the property is in consequence conveyed by the original seller to different person in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with advalorem duty in respect only of the consideration and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with advalorem duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchasers:.

Direction as to duty in respect of certain conveyances -

(1) **Where** any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in 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 of 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 advalorem 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 advalorem 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 advalorem duty in respect only **of**

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

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

29. Duties by whom payable -

In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne -

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30. Obligation to give receipt in certain case -

Any person receiving any money exceeding **twenty rupees** in amount, or any bill of exchange, cheque or promissory note for an amount exceeding **twenty rupees**, or receiving in satisfaction or part satisfaction of a debt any movable property exceeding **twenty rupees** in value, shall on demand by the person paying

the market value of such residue:

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

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with ad-valorem duty in respect of the **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 rupees, with a duty of **five hundred** rupees.

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

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(h) ***in case of any instrument not specified in clause (a)to (g) of this section and elsewhere in this Act - by the person making, drawing or executing such instrument.***

Obligation to give receipt in certain case -

Any person receiving any money exceeding **five thousand** rupees in amount, or any bill of exchange, cheque or promissory note for an amount exceeding **five thousand** rupees, or receiving in satisfaction or part satisfaction of a debt any movable property exceeding **five thousand** rupees or delivering such money, bill cheque, note or property, give a duly stamped receipt for the same.

Any person receiving to 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.

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 officer as to the duty (if any) with which it is chargeable, and pays a fee of **such amount (not exceeding five rupees and not less than fifty naye paise) as the Collector may in each case direct,** the Collector shall determine the duty (if any) with which, in his judgment the instrument is chargeable.

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

Provided that -

(a) no evidences 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 full duty with which the instrument

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 to 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.

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 officer as to the duty (if any) with which it is chargeable, and pays a fee of **one hundred rupees,** 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 affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty or the amount of duty with which it is chargeable, are fully and truly set forth therein and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly:

Provided that -

(a) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an 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 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.

furnished shall, on payment of 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) **When an instrument so brought to the Collector under sub-section (1) relates to a transaction of immovable property on which 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.**

(4) When an instrument is brought to the Collector for adjudication,-

(i) within one month of execution or first execution of such instrument within concerned State; or

(ii) if such instrument is executed or first executed out of the concerned State, within three months from the date of first receipt of such instrument in the said State;

the person liable to pay stamp duty shall pay the same within sixty days from the date of service of the notice of 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 penalty at the rate of two percent of the deficient portion of stamp duty, for every month or part thereof from the date of execution of such instrument, or the date of the first receipt of such instrument in the State, as the case may be.

32. Certificates by Collector -

(1) When an instrument brought to the Collector under **section 31** is, in his opinion, one of a description chargeable with duty; and -

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

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

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

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

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

Provided that nothing in this section shall authorize the Collector to endorse-

(a) any instrument executed or first executed in **India** and brought to him after the expiration of one month from the date of its execution or first execution, as the case may be;

(b) any instrument executed or first executed

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 duly 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 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 concerned 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.

(b) any instrument executed or first executed out of **the concerned State** and brought to him after the expiration of three months after it has been received in **the said State**.

(4) In case the instrument is produced before

out of **India** and brought to him after the expiration of three months after it has been first received in **India**;

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

the Collector after the period prescribed in clause (a) and (b) of above proviso, the Collector shall proceed under Sections 33 and 40.

33. Examination and impounding of instruments -

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

(2) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in 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 proceedings other than a proceeding under **Chapter XII of Chapter XXXVI of the Code of Criminal Procedure, 1898 (V of 1898);**

(b) in the case of judge of a High Court, the duty of examining and impounding any instrument under this

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

(1) Every person having by law or consent of parties authority to receive evidence. and every person -in-charge of a public office, except an officer of police **or any other officer empowered by law to investigate offences** 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, **whether or not the instrument is valid in law.**

(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 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 proceedings other than a proceeding under **Chapter IX or part D of the Chapter X of the Code of Criminal Procedure, 1973 (2 of 1974).**

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

(3) For the purpose of this section, in cases of doubt :-

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

(b) the State Government may determine who shall be deemed to be person in charge of public offices.

under this section may be delegated to such officer as the Court appoints in this behalf.

(3) For the purpose of this section, in cases of doubt:

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

(b) the State Government may determine who shall be deemed to be person in charge of 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, suomotu or on 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.

34. Special provision as to unstamped receipts -

Where any receipt chargeable with a duty **not exceeding ten naye paise** is tendered to or produced before any officer unstamped in the course of the audit of any public account such officer may in his discretion, instead of impounding the instrument, require a duly stamped receipt to be substituted therefor.

34. Special provision as to unstamped receipts -

Where any receipt chargeable with a duty is tendered to or produced before any officer unstamped in the course of the audit of any public account such officer may in his discretion, instead of impounding the instrument, require a duly stamped receipt to be substituted therefor.

35. Instruments not duly stamped in admissible in evidence, etc.-

No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public officer unless such instrument is duly stamped;

Provided that-

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

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

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

(d) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court, other than a proceeding under **Chapter XII of Chapter XXXVI**

35. Instruments not duly stamped inadmissible in evidence, etc.-

No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public officer unless such instrument is duly stamped **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 any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped;

(d) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court, other than a proceeding under **Chapter IX or part D of**

of the Code of Criminal Procedure, 1898;

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

Chapter X of the Code of Criminal Procedure, 1973 (2 of 1974);

(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 portion of the stamp duty and penalty as specified in clause (a) is paid;**

(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.

39. Collector's power to refund penalty paid under section 38, sub-section (1)-

(1) **When a copy of an instrument is sent to the Collector under section 38, sub-section (1), he may, if he thinks fit, refund any portion of the penalty in excess of five rupees which has been paid respect of such instrument.**

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

40. Collector's power to refund penalty -

(1) Omitted

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

40. Collector's power to stamp instruments impounded -

(1) When the Collector impounds any instrument under section 33, or receives any instrument sent to him under section 38, sub-section (2), **not being an instrument chargeable with a duty not exceeding ten naye paise only or a bill of exchange or promissory note,** he shall adopt the following procedure ;-

40. Collector's power to stamp instruments impounded-

(1) When the Collector impounds any instrument under section 33, or receives any instrument sent to him under sub-section (2) of section 38, he shall adopt the following procedure-

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

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

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

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

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

(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;

(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 percent of the deficient portion of the stamp duty for every month or part thereof from the date of execution of the instrument, minimum being Rs. 100/-**:

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

(2) **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.

42. Endorsement of instruments on which duty has been paid under Sections 35, 40 or 41 -

(i) When the duty and penalty (if any), livable 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.

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

Provided that-

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

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

45. Power of Revenue authority to refund penalty or excess duty in certain cases-

(1) Where any penalty is paid under section 35 or section 40, the chief controlling revenue authority may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.

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 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 provisions of ***rule 9 of order XIII of the Code of Civil Procedure, 1908 (5 of 1908);***

45. Power of revenue authority to refund penalty or excess duty in certain cases -

(1) Where any penalty is paid under section *35* or section *40,* the chief controlling revenue authority may, upon application in writing made within one year from the date of the payment, refund such

	penalty wholly or in part.
(2) Where in the opinion of chief controlling revenue authority, stamp duty in excess of that which is legally chargeable has been charged and paid under Section 35, *or* section 40**,** such authority may, upon application in writing made **within three months** of the order charging the same, refund the excess.	(2) Where in the opinion of Chief Controlling Revenue Authority, stamp duty in excess of that which is legally chargeable has been charged and paid under Section 35 or section 40, such authority may, upon application in writing made within ***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.**
47. Power of payer to stamp bills and promissory notes received by him unstamped -	**47. Power of payer to stamp bills and promissory notes received by him unstamped -**
When any bill of exchange or promissory note chargeable with a duty not exceeding **ten naye paise** is presented for payment unstamped, the person to whom it is so presented may affix thereto the necessary adhesive stamp, and, upon canceling the same in manner therein before provided, may pay the sum payable upon such bill or note and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as aforesaid, and such bill or note shall, so far as respect the duty, be deemed good and valid.	When any bill of exchange or promissory note chargeable with a duty not exceeding **ten rupees** is presented for payment unstamped, the person to whom it is so presented may affix thereto the necessary adhesive stamp, and, upon canceling the same in **the** manner therein before provided, may pay the sum payable upon such bill or note and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as aforesaid, and such bill or note shall, so far as respect 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 note.	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 note.
47-A.	**47-A. Instruments undervalued how to be dealt with -**
	(1) If the registering officer appointed under section 6 of the Registration Act, 1908 (16 of 1908), while registering any instrument, on which stamp duty is chargeable on the market value of the subject matter property, finds that the market value of the said property as set-forth in such instrument is less than 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 reason 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.

(3) On receipt of a reference under sub-section (1) and (2), the Collector shall after giving the parties a reasonable opportunity of being heard and after holding an enquiry in such manner, as may be prescribed, determine the market value of the property, which is the subject matter of such instrument and the duty as aforesaid and the difference, if any, in the amount of duty shall be payable by the person liable to pay the duty.

(4) The Collector may suomotu, *or* on receipt of information from any source call for and examine any instrument, not already referred to him under sub-section (1) and (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 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 Code of Civil Procedure, 1908 (5 of 1908).

(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 appealed against shall be excluded.

(8) The appellate authority shall follow the procedure as may be prescribed:

Provided that no order shall be passed 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.

48. Recovery of duties and penalties -

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

48. Recovery of duties and penalties -

(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 of which are pending recovery and to

49. Allowance for spoiled stamps -

Subject to such rules as may be made by the State Government as to the evidence to be required or, the enquiry to be made, the Collector may, on application made within the period prescribed in **section 50** and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases hereinafter mentioned, namely,-

(1) The stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the purpose intended before any instrument written thereon is executed by any person;

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

(3) In the case of bills of exchange payable otherwise than on demand or promissory notes -

(a) the stamp on any such bill of exchange signed by or on behalf of the drawer which has not been accepted or made use of in any manner whatever or delivered out of his hands for any purpose other than 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 to be afterwards written thereon.

(b) 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;

proceedings under sub-section (1), which have already been initiated.

(3) Notwithstanding anything contained in the Registration Act, 1908 (16 of 1908), 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.

49. Allowance for spoiled stamps -

Subject to such rules as may be made by the State Government as to the evidence to be required or, the enquiry to be made, the Collector may, on application made within the period prescribed in **section 50** and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases hereinafter mentioned, namely,-

(1) The stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the purpose intended before any instrument written thereon is executed by any person;

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

(3) In the case of bills of exchange payable otherwise than on demand or promissory notes -

(a) the stamp on any such bill of exchange signed by or on behalf of the drawer which has not been accepted or made use of in any manner whatever or delivered out of his hands for any purpose other than 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 to be afterwards written thereon.

(b) 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;

(c) the stamp used or intended to be used for any such bill of exchange or promissory note signed by or on behalf or, the drawer thereof, but which from any omission or error has been, spoiled or rendered useless, although the same, being a bill of exchange may have been presented for acceptance or accepted or endorsed, or, being a promissory note, may have been delivered to the payee;

(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, con not be completed so as to effect the intended transaction in the form proposed;

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

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

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

(c) the stamp used or intended to be used for any such bill of exchange or promissory note signed by or on behalf or, the drawer thereof, but which from any omission or error has been, spoiled or rendered useless, although the same, being a bill of exchange may have been presented for acceptance or accepted or endorsed, or, being a promissory note, may have been delivered to the payee;

(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, con not be completed so as to effect the intended transaction in the form proposed;

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

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

(6) becomes useless in consequence of the transaction intended to be thereby effected being affected by some other instrument

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

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

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

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

50. Application for relief under Section 49 when to be made -

The application for relief under Section 49 shall be made within the following periods, that is to say -

(1) in the case 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

between the same parties and bearing a stamp of not less value;

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

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

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

Explanation - The certificate of the Collector under Section 32 that the full duty with which an instrument is chargeable, has been paid and impression or endorsement made on any instrument under sub-sections (3), (4) and (5) of Section 10, relating to payment of stamp duty is an impressed stamp within the meaning of this Section.

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

The application for relief under **section 49** shall be made within the following periods, that is to say -

(1) in the case mentioned in sub-clause V of clause (c) 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 **one year** after the stamp has been spoiled.

(3) in the case of a stamped paper in which an

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 there of by the person by whom it was first or alone executed.

Provided that-

(a) when the spoiled instrument has been for sufficient reasons sent out of India, the application may be made within **six months** after it has been received back in India.

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

instrument has been executed by any of the parties thereto, within **one year** after the date of the instrument, or if it is not dated, within **one year** hs after the execution there of by the person by whom it was first or alone executed:

Provided that-

(a) when the spoiled instrument has been for sufficient reasons sent out of India, the application may be made within **one year** after it has been received back **in the territories to which this Act extends**.

(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 **one year** after the date of execution of the substituted instrument.

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 inadvertantly used any stamp for an instrument not chargeable with any duty; or

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

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

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 inadvertantly used any stamp for an instrument not chargeable with any duty; or

(b) When any stamp used for an instrument has been inadvertantly 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 **one year** after the date of the instrument, or if it is not dated, within **one year** after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

54-A. Allowances for stamps in denomination of annas -

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

Omitted

54-B. Allowance for Refugee Relief stamps -

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

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

Omitted

56. Control of, and statement of case to chief controlling revenue authority-

(1) The powers exercisable by a Collector under Chapter IV and V and under clause (a) of the first proviso to Section 26 shall in all cases be subject to the control of the Chief Controlling Revenue authority.

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

56. Control of, and statement of case to chief controlling revenue authority-

(1) The powers exercisable by a Collector under Chapter IV and V and under clause (a) of the first proviso to Section 26 shall in all cases be subject to the control of the Chief Controlling Revenue authority.

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

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

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(3) Such authority, **after giving a reasonable opportunity of being heard to the parties concerned**, shall consider the case and send a copy of its decision to the Collector, who shall proceed to assess and charge the duty (if any) in conformity with such decision.

56-A. Revision of certain decisions of Collector regarding sufficiency of stamps-

(1) ***When through 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 chief controlling revenue authority 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 chief controlling revenue authority 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.***

57. Statement of case by chief controlling revenue authority to High Court -

(1) **The chief controlling revenue authority may state any case referred to it under section 56, sub-section (2), or otherwise coming to its notice and refer such case, with its own opinion thereon -**

57. Statement of case by Chief Controlling Revenue-authority to High Court -

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

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

(b) **if it arises in the Union territory of Delhi to the High Court of Delhi;**

(c) **if it arises in the Union territory of Arunachal Pradesh or Mizoram to the Gauhati High Court (the High Court of Assam, Nagaland, Meghalaya, Manipur and Tripura);**

(d) **if it arises in the Union territory of the Laksdweep, to the High Court of Kerala;**

(e) **if it arises in the Union territory of Chandigarh, to the High Court of Punjab and Haryana.**

(f) **if it arises in the Union territory of Dadra and Nagar Haveli, to the High Court of Bombay.**

(2) **Every such case shall be decided by not less than three judges of the High Court to which it is referred, and in case of difference, the opinion of the majority shall prevail.**

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 of Chapter XXXVI of the Code of Criminal Procedure, 1898 (V of 1898)** makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section 35, the Court to which appeals lie from, or references are made by, such first mentioned Court may, of its own motion or on the application of the Collector, take such order into consideration.

to High Court having jurisdiction over the State or the Union Territory, as the case may be, in which the case arises;

(2) **Every such case shall be decided by a division bench of the High Court;**

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 IX or part D of chapter X of the Code of Criminal Procedure 1973 (2 of 1974)***, makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under *section 35*, the Court to which appeals lie from, or references are made by, such first mentioned Court may, of its own motion or on the application of the Collector, take such order into consideration.

(2) If such Court, after such consideration is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 35, or without the payment of 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 that Court, shall also send him the 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.

(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 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 that Court, shall also send him the 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 the Collector thinks that the offence was committed with an intention of evading payment of the proper duty;

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

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

(1) **Any Person -**

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

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

(c) **voting or attempting to vote under any proxy not duly stamped;**

shall for every such offence be punishable with fine which may extend to five hundred rupees;

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

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

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

(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, for every such offence be punished with rigorous 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:

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 (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.

62-A. Penalty for making false declaration on clearance list-

Any person who in a clearance list makes a declaration which is false or which he either knows or believes to be false, shall, on conviction, be punished with imprisonment for a term which shall not be less than one month but which may extend to six months or with a fine which may extend to twenty five thousand rupees or with both.

63. Penalty for failure to cancel adhesive stamp -

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

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

Any person who, with intent to defraud the Government,-

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

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

(c) does any other act calculated to deprive the Government of any duty or penalty under this Act,

shall be punishable with fine which may extend to five thousand rupees.

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63. Penalty for failure to cancel adhesive stamp -

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

64. Penalty for omission to comply with provisions of section 30.

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 rigorous 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.

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

(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 by sub-section (1) shall be recovered by the Court as if it were a fine under the Code of Criminal Procedure, 1973. (2 of 1974)***

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

Any person who -

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

(2) with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding **twenty rupees** in amount or value, gives a receipt for an amount or value not exceeding **twenty rupees**, or separated or divides the money or property paid or delivered;

shall be punishable with fine which may extend to **one hundred rupees**.

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

Any person who -

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

(2) with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding **five thousand rupees** in amount or value, gives a receipt for an amount or value not exceeding **five thousand rupees**, or separated or divides the money or property paid or delivered;

shall be punishable with fine which may extend to **one thousand rupees**.

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

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

Any person who -

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

(2) makes, executed or delivers out any policy which is not duly stamped, or pays or allows in account, or agrees to pay or allow in account, any money upon, or in respect of, any such policy;

shall be punishable with fine which may extend to **two hundred rupees**.

Any person who -

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

(2) makes, executed 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 **five thousand rupees**.

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

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

Omitted

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

Any person who -

(a) With intent to defraud the Government of duty, draws, makes or issues any bill of exchange or promissory note bearing 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 postdated, 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, practices or is concerned in any Act,

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

Any person who -

(a) With intent to defraud the Government of duty, draws, makes or issues any bill of exchange or promissory note bearing 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 postdated, 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, practices or is concerned in any Act, contrivance or device not specially provided for by contrivance or device not specially provided for by this Act or any other law for the time being in force.

shall be punishable with fine which may extend to **one thousand rupees**.

69. Penalty for breach or 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 ten naye paise or five naye paise adhesive stamp).**

shall be punishable with imprisonment for a term, which may extend to six months, or with fine which may extend to **five hundred rupees**, or with both.

71. Jurisdiction of Magistrates -

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

72. Place of trial -

Every offence under this Act committed in respect of any instrument may be tried in any district or **presidency town** in which such instrument is found, as well as in any district or **presidency town** in which such offence might be tried under the Code of Criminal Procedure for the time being in force.

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

Every public officer having in his custody any registers, books, records, papers, documents or proceedings, the inspection whereof may tend to secure any duty, or 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, and proceedings and to take such

this Act or any other law for the time being in force.

shall be punishable with fine which may extend to **ten thousand rupees**.

69. Penalty for breach or 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**.**

shall be punishable with imprisonment for a term, which may extend to six months, or with fine which may extend to **ten thousand rupees**, or with both.

Omitted

72. Place of trial-

Every offence under this Act committed in respect of any instrument may be tried in any district **or metropolitan area** which such instrument is found, as well as in any district **or metropolitan area** in which such offence might be tried under the Code of Criminal Procedure, 1973 (2 of 1974), for the time being in force.

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

Every public officer having in his custody any registers, books, records (**electronic or otherwise**), papers, documents proceedings or electronic record, the inspection whereof may tend to secure any duty, or 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, notes and extracts as he may deem necessary, without fee or charge.

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.**

74. Power to make rules relating to sale of stamps -

The State Government may make rules for regulation -

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

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

(c) **the duties and remuneration of such persons,**

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

74. Power to make rules -

(1) ***The State Government may, by notification in the Official 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), and in particular, 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 State Government is

satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the condition of previous publication of any rule to be made under this section.

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

The State Government may make rules to carry out generally the purposes of this Act, and may by such rules prescribe the fines, which shall in not case exceed five hundred rupees, to be incurred on breach thereof.

Combined with clause 74.

76. Publication of rules -

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

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

Combined with clause 74.

76-A. Delegation of certain powers -

The State Government may, by notification in the Official Gazette, delegate-

(a) all or any of the powers conferred on it by section 2(9), 33(3)(b), 70(1), 74 **and 78** of the chief controlling revenue authority, and

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

76-A. Delegation of certain powers -

The State Government may, by notification in the Official Gazette, delegate-

(a) all or any of the powers conferred on it by section 2(9), 33(3)(b), 70(1) and 74 of the chief controlling revenue authority, and

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

77-A. Saving as to certain stamps -

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

Omitted

78. Act to be translated and sold cheaply -

Every State 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 naye paise per copy.

Omitted