



**THE
JAMMU & KASHMIR GOVERNMENT GAZETTE**

Vol. 124] Srinagar, Mon., the 25th April, 2011/5th Vai., 1933 [No. 3-6]

Separate paging is given to this part in order that it may be filed as a separate compilation

PART III

Laws, Regulations and Rules passed thereunder.

GOVERNMENT OF JAMMU AND KASHMIR
CIVIL SECRETARIAT- DEPARTMENT OF LAW,
JUSTICE AND PARLIAMENTARY AFFAIRS

Jammu, the 25th April, 2011.

The following Act as passed by the Jammu and Kashmir State Legislature received the assent of the Governor on 23rd April, 2011 and is hereby published for general information:-

THE STAMP (AMENDMENT) ACT, 2011.

(Act No. XII of 2011)

[23rd April, 2011]

An Act to amend the Stamp Act, 1977 (Act XL of 1977)

Be it enacted by the Jammu and Kashmir State Legislature in the Sixty-second Year of the Republic of India as follows:-

1. Short title and commencement: - (1) This Act may be called the Stamp (Amendment) Act, 2011.

(2) It shall come into force from the date of its publication in the Government Gazette.

2. **Amendment of Section 2, Act XL of Samvat 1977**:- In section 2 of the Stamp Act, Samvat 1977 (hereinafter, referred to as 'the principal Act'), --

(a) For clause (1), the following clause shall be substituted:--

“(1) "Banker" means an association, a company or a person who accepts, for the purposes of lending or investment, deposits of money from the public, repayable on demand or otherwise and withdrawable by cheque, draft, order or otherwise;”

(b) In clause (5), the semi-colon at the end of sub-clause (c) shall be substituted by full stop and thereafter the following explanation shall be added, namely:--

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;”

(c) For clause (9), the following clause shall be substituted, namely:--

“(9) "Collector" means the Deputy Commissioner of a district and includes any officer whom the Government may, by notification in the Government Gazette, appoint in this behalf and on whom any or all powers of the Collector under this Act are conferred by the said notification or any other notification;”

(d) For clause (9-a), the following clause shall be substituted, namely:--

“(9-a) "Commissioner of Stamps" means such officer as the Government may, by notification in the Government Gazette, appoint in this behalf, for the whole or any part of the State.”

(e) For clause (10), the following clause shall be substituted, namely:-

“(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 (Central Act) in respect of the amalgamation or reconstruction of companies;
- (iv) Every order made by the Reserve Bank of India under section 44A of the Banking Regulation Act, 1949 in respect of amalgamation or reconstruction of banking companies; and
- (v) any other instrument,

by which property, whether movable or immovable, or any estate or interest in any property is transferred to, or vested in, any other person inter vivos and which is not specifically provided for by Schedule-1;”

(f) in clause 11, for the words “an adhesive or impressed stamps” the words “a stamp” shall be substituted;

(g) in clause (12), the following clause shall be substituted, namely:-

“(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 (Central Act 21 of 2000);”

(h) after clause (12), the following clause shall be inserted, namely:--

“(12-a)"Immovable property" includes land, buildings, hereditary allowances, rights to way, light, ferries and fisheries or any other

benefit arising out of land and things attached to the earth or anything permanently fastened to anything attached to the earth but does not include standing timbers, growing crops or grass";

- (i) in clause (13), after sub-clause (b), the following sub-clause shall be added, namely:--

“(c) impression, mark or endorsement by a machine or any other mode of stamping, as the Government may, by notification in the Government Gazette, specify.”

- (j) for clause (14), the following clause shall be substituted, namely:--

“(14) "Instrument" includes every document and every electronic record as defined under clause (t) of Section 2 of the Information Technology Act, 2000 (Central Act 21 of 2000) by which any right or liability is or purported to be created, transferred, limited, extended, extinguished or recorded and any other document mentioned in the Schedule-1;”

- (k) for clause (15), the following clause shall be substituted, namely:--

“(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:-

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

- (b) an award by an arbitrator directing the partition; and

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

- (l) in clause (16), after sub-clause (d), the following sub-clauses shall be added, namely:-

“(e) any agreement to lease; and

- (f) a decree or final order of any civil or revenue court, by which the lease rights are transferred in favour of the lessee;”
- (m) for clause (16-a), the following clauses, shall be substituted, namely:-

“(16-a) "Market value" in relation to any property which is the subject matter of an instrument, means the price which such property would fetch or would have fetched if sold in open market on the date of execution of such instrument as determined in such manner and by such authority as specified in this Act, or the rules made thereunder or the considerations stated in the instrument, whichever is higher;

(16-b) "Marketable security" means a security of such a description as to be capable of being sold in any stock market in India or abroad;

- (n) after clause (17), the following clause shall be, inserted, namely:--

“(17-a) "Movable property" includes standing timber, growing crops, and grass, fruit upon or juice, in the trees, and property of every other description except immovable property.”

- (o) for clause (21), the following clause shall be substituted, namely:--

“(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;”

- (p) after clause (22), the following clause shall be inserted, namely:--

“(22-a) "public officer" means a public officer as defined in clause (17) of section 2 of the Code of Civil Procedure Samvat 1977;” and

- (q) in clause (24-a), for the words “impressed stamp”, the words “impressed or electronic stamp” shall be substituted.

3. Amendment of section 3. Act XL of Samvat 1977. — In section 3 of the principal Act,--

“(a) after clause (c) but before the proviso thereto, the following proviso shall be inserted, namely.—

“Provided that wherever no proper duty has been paid on the original of an instrument which is chargeable to duty with an amount indicated in the Schedule-1 as the proper duty therefor, a copy of such instrument or record relating to, or in respect of, the transaction shall be chargeable with duty of an amount which is indicated in the Schedule-1 as the proper duty for the original of such instrument;” and

(b) in the existing proviso, for the words “provided that”, the words “provided further that” shall be substituted;

4. *Amendment of section 4, Act XL of Samvat 1977.* — In section 4 of the principal Act, for sub-section (l), the following sub-section shall be substituted, namely:--

“(l) 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 thereafter, each of the other instruments shall be chargeable with a duty of one hundred rupees;”

5. *Omission of sections 4-A and 4-B of Act XL of Samvat 1977.* — Sections 4-A and 4-B of the principal Act, shall be omitted.

6. *Amendment of Section 6, Act XL of Samvat 1977.*— In section 6 of the principal Act, for the words “exceeding five rupees”, the words “exceeding one hundred rupees” shall be substituted.

7. *Amendment of section 9, XL of Samvat 1977.* — In section 9 of the principal Act, --

(i) for the words “The Government may”, the words “The Government, if satisfied that it is necessary to do so in the public interest, may” shall be substituted; and

(ii) for clause (b), the following clause shall be substituted, namely:-

“(b) Provide for the composition or consolidation of duties of policies of the insurance and on issues by any incorporated company or other body corporate, or on transfers where there is a single transferee whether incorporated or not, of debentures, bonds or other marketable securities;”

8. *Substitution of section 10, Act XL of Samvat 1977.*— For section 10 of the principal Act, the following section shall be substituted, namely:-

“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) in accordance with the provisions herein contained; or

(b) when no such provision is applicable thereto, as the Government may by rules prescribe.

(2) The rules as mentioned in clause (b) of sub-section (1) may, among other matters, regulate.—

(a) in the case of any or all kinds of instruments, the description of stamps which may be used;

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

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

(d) the use of franking machine or any other machine as specified in the rules; and

(e) the used and procedure of electronic stamping.

(3) Subject to the rules made under sub-section (2), the Government may authorize any person, body or organization,

including post offices and banks, to use a franking machine or any other such machine for making impression of stamps indicating the payment of stamp duty on the instruments.

(4) The stamp duty may be paid in cash by a challan in any Government Treasury, Sub-Treasury or bank authorized to conduct government business and such payment shall be indicated on such instrument by endorsement to that effect made on the instrument by such officer as may be authorized by the Government in this behalf;

(5) Notwithstanding anything contained in sub-Section(4), and subject to rules made by the Government in this behalf, the duty on an instrument can also be paid in the Government Account electronically and indicated by means of a certificate issued under electronic stamping system specified by the Government for the purpose;

Provided that if the Government is satisfied that circumstances exist in public interest to restrict the mode of indicating the payment of duty on any instrument or a particular class of instruments to any of the modes as specified in sub-section (4) and this sub-section, , it can do so by an order published in this behalf in the Government Gazette.

(6) An impression or endorsement made on an instrument under Sub-sections (3), (4) and (5) shall have the same effect as if the duty of an amount equal to the amount indicated in the impression or endorsement, as the case may be, had been paid in respect of that instrument and such payment had been indicated on such instrument by means of stamps under Sub-section (1).”

9. *Substitution of section 11, Act XL of Samvat 1977.*— Section 11 of the principal Act shall be substituted by following section, namely.—

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

(a) acknowledgement (article 1);

(b) articles of association (article 10);

- (c) certificates (article 16);
- (d) delivery order in respect of goods (article 23);
- (e) letter of allotment of shares (article 30);
- (f) letter of credit (article 31);
- (g) notarial act (article 37);
- (h) note or memorandum (article 38);
- (i) policy of insurance (article 41);
- (j) protest of bill or note (article 44);
- (k) proxy (article 45);
- (l) receipt (article 46);
- (m) transfer of shares [article 54(a)] ; and
- (n) warrant for goods (article 57)."

10. *Amendment of section 13, Act XL of Samvat 1977.*— At the end of section 13 of the principal Act, the following explanations shall be added, namely.—

“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.”

11. *Insertion of section 14-A, Act XL of Samvat 1977.*— After section 14 of the principal Act, the following section shall be inserted, namely.—

“(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.”

12. *Substitution of section 15, Act XL of Samvat 1977.* — Section 15 of the principal Act shall be substituted by following section, namely.—

“15. Instruments deemed not duly stamped.— Every instrument written in contravention of section 13, 14 or 14-A shall be deemed to be not duly stamped.”

13. *Amendment of section 17, Act XL of Samvat 1977.* — In section 17 of the principal Act, after the words “at the time of execution”, the words “or immediately thereafter” shall be inserted.

14. *Amendment of section 20, Act XL of Samvat 1977.* — In section 20 of the principal Act, the words and figures “under Notification of the Governor-General in Council issued under sub-section (2) of section 20 of Act II of 1899” shall be omitted.

15. *Amendment of section 26, Act XL of Samvat 1977.* — In section 26 of the principal Act, in the first proviso.—

- (a) for the words “shall be sufficient” the words “shall be subject to the provisions of section 26-A, sufficient” shall be substituted; and
- (b) in clause (b), for the words “twenty thousand rupees”, the words “two lakh rupees” shall be substituted.

16. *Insertion of section 26-A, Act XL of Samvat 1977.*— After section 26 of the principal Act, the following section shall be inserted, namely.—

“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 under 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.”

17. *Substitution of section 27, Act XL of Samvat, 1977.*— Section 27 of the principal Act shall be substituted by following section, namely:-

“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 set forth the annual land revenue, the annual rental or gross assets, as the case may be, the local rates, municipal or other taxes if any, to which such property is subject to and any other particulars which may be prescribed by rules made under this Act.

(3) A registering officer appointed under Section 6 of the Registration Act, Samvat, 1977 or any other officer authorised in his behalf may inspect, take photographs and measurement of the property, which is the subject matter of such instrument, in order to satisfy that the provisions of this section have been complied with in respect of such instrument.”

18. *Insertion of section 27-A in Act XL of Samvat, 1977.—* After section 27 of the principal Act, the following section shall be inserted, namely.—

“27-A. **Fixation of market value guidelines.**— Subject to rules made in this behalf, the Government may fix and revise periodically the market value guidelines of lands, buildings and various kinds of interests in immovable property situated in the State for the purpose of determining the duty chargeable at the time of registration and for making reference to the Collector under Section 47-A of instruments involving immovable properties.”

19. *Substitution of section 28, Act XL of Samvat, 1977.—* Section 28 of the principal Act shall be substituted by following section, namely:-

“28. **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 the market value of such residue:

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

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

five hundred rupees.”

20. *Substitution of section 29, Act XL of Samvat, 1977.*— Section 29 of the principal Act shall be substituted by following section, namely:-

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

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

article 2 (Administration Bond);

article 6 (Agreement relating to deposit of title deeds, pawn, or pledge);

article 12 (Bill of exchange);

article 13 (Bond);

article 21 (Customs Bond);

article 22 (Debenture);

article 26 (Further charge);

article 28 (Indemnity Bond);

article 35 (Mortgage deed);

article 43 (Promissory Note);

article 48 (Release);

article 49 (Security-Bond or Mortgage-deed)

article 50 (Settlement);

article 54(a) (Transfer of shares, in an incorporated company or other body corporate);

article 54(b) (Transfer of debentures, being marketable securities, whether the debenture is liable to duty or not.); and

article 54(c) (Transfer of any interest secured by a bond, mortgage deed or policy of insurance);

by the person drawing, making or executing such instrument;

(b) in the case of a policy of insurance other than fire-insurance-by the person effecting insurance;

(c) in the case of policy of fire-insurance, by the person issuing the policy;

(d) In the case of a conveyance (including a re-conveyance of mortgaged property), by the grantee;

(e) in the case of a lease or agreement to lease, by the lessee or intended lessee;

(f) in the case of a counter part of a lease, by the lessor;

(g) in the case of an instrument of exchange, by the parties in equal share;

(h) in the case of a certificate of sale, by the purchaser of the property to which such certificate relates;

(i) in the case of an instrument of partition, by the parties thereto in proportion to their respective shares in the whole property partitioned, or when the partition is made in execution of an order passed by a Revenue Authority or Civil Court or Arbitrator, in such proportion as such Authority, Court or Arbitrator directs ; and

(j) in case of any instrument not specified in clause (a)to (g) of this section and elsewhere in this Act, by the person making, drawing or executing such instrument;”

21. *Amendment of section 30, Act XL of Samvat, 1977.*— In section 30 of the principal Act, for the words “Forty rupees” wherever occurring, the words “one hundred rupees” shall be substituted.

22. *Amendment of section 31, Act XL of Samvat, 1977.*— In section 31 of the principal Act .—

(a). Sub-section (1), for the words “a fee of such amount (not exceeding five rupees and not less than fifty paisa) as the Collector may in each case direct”, the words “a fee of one hundred rupees” shall be substituted.

(b) for sub-section (3), the following sub-section shall be substituted, namely.—

“(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.”

(c) sub-section (4) shall be omitted; and

(d) Sub-section (5) shall be renumbered as sub-section (4) and in sub-section (4) as so renumbered, the words and figures, “under section 29” shall be omitted.

23. *Amendment of section 32, Act XL of Samvat, 1977.*— In section 32 of the principal Act .—

(a) in sub-section (3) for the words “any instrument”, the words “subject to the provisions of Chapter VI, any instruments” shall be substituted; and

(b) after sub-section (3), the following sub-section shall be inserted, namely:--

“(4) In case the instrument is produced before the Collector after the period prescribed in proviso to sub-section (3), the Collector shall proceed under Sections 33 and 40.”

24. *Amendment of section 33, Act XL of Samvat, 1977.*— In section 33 of the principal Act .—

- (a) in sub-section (1), for the words “an officer of police”, the words “an officer of police or any other officer empowered by law to investigate offences” shall be substituted; and
- (b) after the sub-section (3) the following sub-sections shall be added, namely.—

“(4) When a person referred to in sub-section (1) during the course of inspection or otherwise, detects from an instrument or copy thereof that the instrument is not duly stamped, such person shall forthwith make a reference to the Collector in the matter.

(5) The Collector may either *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.”

25. *Substitution of section 35, Act XL of Samvat, 1977.*— Section 35 of the principal Act shall be substituted by following section, namely:-

- “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 Chapter X of the Code of Criminal Procedure, Samvat 1989;
- (e) nothing herein contained shall prevent the admission of any instrument in any court when such instrument has been executed by or on behalf of the Government or where it bears the certificate of the Collector as provided by section 32 or any other provision of this Act and such certificate has not been revised in exercise of powers conferred under chapter VI;
- (f) nothing herein contained shall prevent the admission of a copy of any instrument or of an oral admission of the contents of any instrument, if the stamp duty or a deficient portion of the

stamp duty and penalty as specified in clause (a) is paid; and

- (g) any such instrument subject to all just exceptions be registered or authenticated on payment of the duty with which the same is chargeable, or in the case of an instrument insufficiently stamped, of the amount required to make up such duty.”

26. *Substitution of section 39, Act XL of Samvat, 1977.*— Section 39 of the principal Act shall be substituted by following section, namely:-

“39. **Collector’s power to refund penalty.**— When a copy of an instrument has been impounded only because it has been written in contravention of section 13 or section 14 or section 14-A, the Collector may refund the whole penalty so paid.”

27. *Substitution of section 40, Act XL of Samvat, 1977.*— Section 40 of the principal Act shall be substituted by following section, namely:-

“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) When any instrument so impounded or received by the Collector relates to a transaction of immovable property and on which the stamp duty is chargeable on the basis of market value of the subject matter property, the Collector shall for the purpose of assessing proper stamp duty payable thereon, determine the market value of such property by following the procedure as prescribed by rules made by the State Government in this behalf;
- (b) If he is of opinion that such instrument is duly stamped, or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable, as the case may be; and
- (c) If he is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same,

together with a penalty equal to two 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 rupees one hundred;”

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

(2) Subject to the provisions of Chapter VI, every certificate under sub-section (1) shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

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

28. *Amendment of section 42, Act XL of Samvat, 1977.*— In section 42 of the principal Act, in sub-section (2), for the words “Every instrument so endorsed”, the words “subject to the provisions of Chapter VI, every instrument so endorsed” shall be substituted.

29. *Substitution of section 45, Act XL of Samvat, 1977.*— Section 45 of the principal Act shall be substituted by following section, namely:-

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

30. *Amendment of section 47, Act XL of Samvat, 1977.*— In section 47 of the principal Act, for the words “One rupee”, the words “ten rupees” shall be substituted.

31. *Insertion of section 47-A, in Act XL of Samvat 1977.*— After section 47 of the principal Act, the following section shall be inserted, namely.—

“47-A. **Instruments undervalued how to be dealt with.**— (1) If the registering officer appointed under section 6 of the Registration Act, Samvat 1977, while registering any instrument, on which stamp duty is chargeable on the market value of the subject matter property, finds that the market value 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) or (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, either suomotu or on receipt of information from any source, call for and examine any instrument, not already referred to him under sub-section (1) or sub-section (2), for the purpose of satisfying himself as to the correctness of the market value of the property, which is the subject matter of any such instrument and the duty payable thereon and if, after such

examination he has reason to believe that the market value of such property has not been truly set-forth in the instrument, he may determine the market value of such property 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, Samvat 1977.

(6) Any person aggrieved by an order of the Collector under sub-section (3) or sub-section (4), may in the prescribed manner appeal against such order to such appellate authority as may be prescribed:

(7) The appeal shall be filed within thirty days from the date of the communication of the order against which the appeal is filed, along with a certified copy of the order to which objection is made and shall be presented and verified in such manner as may be prescribed:

Provided that in computing the period aforesaid, the time requisite for obtaining a copy of the order 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.”

32. *Substitution of section 48, Act XL of Samvat, 1977.*— Section 48 of the principal Act shall be substituted by following section, namely:-

“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 which are pending recovery and to proceedings under sub-section (1), which have already been initiated.

(3) Notwithstanding anything contained in the Registration Act, Samvat 1977 a note of such charge and its extinguishment shall be made in the indices prescribed therein and shall be deemed to be a notice under the said Act.”

33. *Amendment of section 49, Act XL of Samvat, 1977.*— In section 49 of the principal Act, for existing ‘Explanation’, the following ‘Explanation’ shall be substituted, namely.—

“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.”

34. *Omission of Section 54-A, Act XL of Samvat 1977.*— Section 54-A of the principal Act shall be omitted.

35. *Amendment of Section 56, Act XI of Samvat 1977.*— In section 56 of the principal Act.—

(a) in the marginal heading, the words "Government" shall be omitted;

- (b) In sub-section (1), for the words “Government” the words “Commissioner of Stamps” shall be substituted; and
- (c) in sub-section (3) after the words “such authority shall consider”, the words “such authority, after giving a reasonable opportunity of being heard to the parties concerned, shall consider” shall be substituted.

36. *Substitution of section 57, Act XL of Samvat, 1977.*— For section 57 of the principal Act, the following section shall be substituted, namely:-

“57. **Revision of certain decisions of Collector regarding sufficiency of stamps.**— (1) When as a result of mistake or otherwise any instrument is charged with less duty than leviable thereon or is held not chargeable with duty, as the case may be, by the Collector, the Commissioner of Stamps except where the matter is pending before an appellate authority under this Act, may require the concerned party to produce before him the instrument and after giving a reasonable opportunity of being heard to the party, examine such instrument whether any duty is chargeable, or any duty is less levied thereon, and order the recovery of the deficit duty, if any, from the concerned party. An endorsement shall thereafter be made on the instrument after payment of such deficit duty.

(2) On failure to produce the original instrument by the party, the Commissioner of Stamps shall proceed under this section on the basis of the true copy of the instrument or an abstract of the instrument and such copy or abstract shall be deemed to be the original instrument for the purpose of this section.”

37. *Omission of sections 58,59, and 60, Act XL of Samvat 1977.*— Sections 58, 59 and 60 of the principal Act shall be omitted.

38. *Substitution of section 62, Act XL of Samvat 1977.*— For section 62 of the principal Act, the following section shall be substituted, namely.—

“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 be punished with imprisonment for a term which shall not be less than one month but

which may extend to six months and with fine which may extend to ten thousand rupees or with both;

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

(2) If a security as defined under clause (h) of section 2 of Securities Contract (Regulation) Act, 1956 (Central Act 42 of 1956), is issued without being duly stamped, the company issuing the same and also every person, who, at the time when it is issued, is the managing director, secretary or other principal officer of the company, shall be punishable with fine which may extend to twenty five thousand rupees.”

39. *Amendment of section 64, Act XL of Samvat 1977.*— In section 64 of the principal Act, for the words “shall be punishable with fine which may extend to ten thousands rupees”, the words “shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years or with a fine which may extend to fifty thousand rupees or with both” shall be substituted.

40. *Insertion of section 64-A in Act XL of Samvat 1977.*— After section 64 of the principal Act, the following section shall be inserted, namely.—

“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 under sub-section (1) shall be recovered by the Court as if it were a fine under the Code of Criminal Procedure, Samvat 1989.”

41. *Amendment of section 65 Act XL of Samvat 1977.*— In section 65 of the principal Act, in clause (b), for the words “forty rupees” wherever occurring the words “five thousand rupees” shall be substituted.

42. *Omission of Section 67, Act XL of Samvat 1977.*— Section 67 of the principal Act shall be omitted.

43. *Amendment of section 69 Act XL of Samvat 1977.*— In section 69 of the principal Act, for the words “one thousand rupees” the words “ten thousand rupees” shall be substituted.

44. *Substitution of section 73, 73-A and 74, Act XL of Samvat 1977.*— Section 73, section 73-A and section 74 of the principal Act shall be substituted by following sections, namely.—

“73. **Books, etc. to be open to inspection.**— Every public officer having in his custody any registers, books, records (electronic or otherwise), papers, documents or proceedings, the inspection whereof may tend to secure any duty, prove or lead to the discovery of any fraud or omission in relation to any duty, shall, at all reasonable times permit any person authorised in writing by the Collector to inspect for such purpose the registers, books, papers, documents, records (electronic or otherwise) and proceedings and to take such notes and extracts as he may deem necessary, without fee or charge and, if necessary, to seize and impound them under section 33.

73-A **Furnishing of statement, return and information.**— (1) The Collector may, for the purpose of this Act, require any trading member of any stock exchange or an association as defined in clause (a) of section 2 of the Forward Contract (Regulation) Act, 1952 (Central Act) or any organization, institute, company or association or any person liable to pay duty under any article of the Schedule-I, to submit a statement or return or to furnish any information in respect of any transaction

within such period as may be prescribed by rules.

(2) Where any trading member, organization, institute 'company' association or any other person fails to submit a statement or return or information as required under sub-section (1) within the prescribed time, the Collector, may without prejudice to any other action which is liable to be taken against such person under any other provisions of this Act, after giving an opportunity of being heard, impose on such person a penalty of a sum not exceeding rupees five thousand for such default.

74. **Power to make rules.**— (1) The Government may, by notification in the Government Gazette, make rules to carry out generally the purposes of this Act, and such rules may provide that a breach thereof shall, on conviction, be punished with fine not exceeding five thousand rupees.

(2) Without prejudice to the generality of the powers conferred by sub section (1), such rules may regulate, or provide for, all or any of the following matters, namely:-

- (a) the supply, sale and use of stamps and stamped papers;
- (b) the persons by whom alone such sale is to be conducted,
- (c) the duties and remuneration of such persons,
- (d) the manner of ascertaining the market value of immovable property and preparation of market value guidelines of immovable properties,
- (e) the procedure for appeal or revision proceedings; and
- (f) the procedure for use of franking machine or any other machine or electronic stamping for payment of stamp duty.

(3) All rules made under this Act shall be made subject to the condition of previous publication in the Official Gazette:

Provided that, if the Government is satisfied that circumstances exist which render it necessary to take immediate action, it may for reasons to be recorded in writing, dispense with the condition of previous publication of any rule to be made under this section.

45. *Omission of sections 75 and 76, Act XL of Samvat 1977.*— Sections 75 and 76 of the principal Act shall be omitted.

46. *Amendment of section 76-A, Act XL of Samvat 1977.*— In section 76-A of the principal Act, for the words and figures, “under section 33(3), 45(1) and (2), 56(1), 70(1) and (2), 74, 78”, the words and figures “under sub-section (3) of section 33, section 45, sub-section (1) of section 56, sub-sections (1) and (2) of section 70 and section 74” shall be substituted.

47. *Omission of section 77-A and 78, Act XL of Samvat 1977.*— Section 77- and 78 of the principal Act shall be omitted.

48. *Substitution of schedule-I, Act XL of Samvat 1977.*— Schedule I of the principal Act shall be substituted by the following schedule, namely.—

“Schedule-I
Stamp Duty on Instruments
(See Section 3)

Article 1	Description of Instrument 2	Proper stamp duty 3
1.	ACKNOWLEDGEMENT, of a debt exceeding five thousand rupees in amount or value, executed by or on behalf of debtor in any book (other than a banker's pass book) or on a separate piece of paper when such book or paper is left in the creditor's possession.	Ten rupees.
2.	ADMINISTRATION-BOND, including a bond given under section 78 of the Probate and Administration Act, or and section 9 or section 10 of the Succession Certificate Act.	Five hundred rupees.
3.	ADOPTION DEED, that is to say, any instrument (other than a will) recording an adoption or	Five hundred rupees.

conferring or purporting to confer an authority to adopt.

4. AFFIDAVIT, that is to say, a statement in writing purporting to be a statement of fact, signed by the person making it and confirmed by him on oath or, in the case of persons by law allowed to affirm instead of swearing, by affirmation. Ten rupees.

Exemption ;-

Affidavit or declaration in writing when made for the sole purpose of enabling any person to receive any pension or charitable allowance.

5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT.
- (a) If relating to the sale of bill of exchange. One rupee for every Rs. 10,000 or part thereof.
- (b) (i) If relating to the purchase or sale of a Government security; One rupee for every Rs. 10,000 or part thereof of the value of the security at the time of its purchase or sale, as the case may be, subject to a maximum of one thousand rupees.
- (ii) If relating to the purchase or sale of shares, scrips, bonds, debentures, debenture-stocks or any other marketable security of a like nature in, or, of any incorporated company or other body corporate. One rupee for every Rs. 10,000 or part thereof of the value of the security at the time of its purchase or sale, as the case may be.
- (c) If not otherwise provided for. One hundred rupees.
- Exemptions ;-
- Agreement or memorandum of an agreement -
- (a) for or relating to the sale of goods or merchandise exclusively, not being a Note or Memorandum chargeable under article 38;
- (b) made in the form of tenders to the Government for, or relating to, any loan.

6. AGREEMENT RELATING TO DEPOSIT OF TITLE DEEDS, PAWN, PLEDGE OR HYPOTHECATION,

that is to say, any instrument evidencing an agreement relating to-

- (a) the deposit of title deeds or instrument constituting or being evidence of the title to any property whatever (other than a marketable security), where such deposit has been made by way of security for the repayment of money, advanced or to be advanced by way of loan or an existing or future debt; or 0.25 percent of the amount secured by such deed, subject to a maximum of five lakh rupees.

- (b) the pawn, pledge or hypothecation of movable property, where such pawn, pledge, or hypothecation has been made by way of security for the repayment of money advanced, or to be advanced by way of loan or an existing or future debt-
 - (i) If such loan or debt is repayable on demand or more than three months from the date of the instrument, evidencing the agreement; 0.50 percent of the amount secured, subject to a maximum of five lakh rupees.
 - (ii) If such loan or debt is repayable not more than three months from the date of such instrument. Half the duty payable under sub-clause (i) of clause (b) of this article.

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

Exemptions :-

- (a) Letter of hypothecation accompanying a bill of exchange.
- (b) Instrument of pawn or pledge of agriculture produce if unattested.

7. APPOINTMENT IN EXECUTION OF A POWER, whether of trustees or of property, moveable or immoveable, where made by any writing not being a will. One hundred rupees.

8. APPRAISEMENT OR VALUATION, made otherwise than under an order of the court in the course of a suit. One hundred rupees.

Exemptions :-

- (a) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.
- (b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.

9. APPRENTICESHIP DEED, including every writing relating to the service or tuition of any apprentice, clerk or servant, placed with any master to learn any profession, trade or employment. One hundred rupees.

Exemption :-

Instruments of apprenticeship by which a person is apprenticed by or at the charge of any public charity.

10. ARTICLES OF ASSOCIATION OF A COMPANY –

- (a) where the company has no share capital; One thousand rupees.
- (b) where the company has nominal share capital or increased share capital. 0.15 percent of such nominal or increased share capital subject to a minimum of one thousand rupees and a maximum of five lakh rupees.

Exemption :-

Articles of any Association not formed for profit and registered under the Companies Act, 1956.

- | | | |
|-----|---|---|
| 11. | AWARD, that is to say, any decision in writing by an arbitrator or umpire, on a reference made otherwise than by an order of the Court in the course of a suit, being an award made as a result of a written agreement to submit present or future differences to arbitration and not being an award directing a partition. | Ten rupees for every one thousand rupees or part thereof, of the amount or value of the property to which the award relates. |
| 12. | Bill of Exchange [as defined by section 2 (2)], not being a bond, bank-note or currency note, where payable otherwise than on demand- | |
| | (a) When payable not more than one year after date or sight; | 0.06 percent for every three months or a fractional part thereof on the amount of bill, subject to a maximum of 0.24 percent. |
| | (b) When payable at more than one year after date or sight. | 0.5 percent on the amount of bill. |
| 13. | BOND, as defined by section 2(5), not being otherwise provided for by any provision of this Act, whether or not relating to particular type of bonds, or by the Court Fees Act. | 0.5 percent of the amount secured by such deed, subject to a maximum of five lakhs. |

Exemption :-

Bond when executed by any person for the purpose of guaranteeing that the total income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.

- | | | |
|-----|---|--|
| 14. | CANCELLATION instrument of, if attested and not otherwise provided for. | One hundred rupees. |
| 15. | CERTIFICATE OF SALE, (in respect of each property put up as a separate lot and sold), granted to the purchaser of any property sold by public auction by a Civil or Revenue Court | The same duty as a conveyance (No.18) for a market value equal to the amount of purchase money only. |

or Collector or other Revenue Officer or an officer authorised to do so under any law for the time being in force.

16. CERTIFICATE OR OTHER DOCUMENT, evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body. One rupee for every Rs. 1,000 or part thereof, of the value of shares, scrip or stock subject to a minimum of five rupees.
17. COMPOSITION DEED, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business under the supervision of inspectors nominated by the creditors or under letters of licence for the benefit of his creditors. Five hundred rupees.
18. CONVEYANCE, not being a transfer charged or exempted under No.54:
- (a) Where the land or estate is within any urban area. 7% of the market value of such land or estate.
- (b) Where the land or estate is within rural area. 5% of the market value of such land or estate.
Provided that -
- (a) when an instrument relates to an assignment of a debt, the rate of duty applicable shall be 0.5 per cent on the amount of the debt assigned;
- (b) where an agreement to sell an immovable property is stamped with advalorem duty required for a conveyance and a sale deed in pursuance of such agreement is

- subsequently executed, the duty on such sale deed shall be the duty payable under the article less the duty already paid, subject to a minimum of Rs.100;
- (c) where a power of attorney authorizing the agent to sell immovable property is stamped with advalorem duty required for a conveyance and a sale deed is executed in pursuance of power of attorney between the executant of attorney and the person in whose favour it is executed, the duty on the sale deed shall be the duty payable under the article less the duty already paid, subject to a minimum of Rs.100;
- (d) where a mortgage deed is stamped with advalorem duty required for a mortgage under article 35 and a court decree in pursuance of a suit filed against the mortgaged property is executed, the duty payable on the decree shall be the duty payable under the article less the duty already paid under article 35 on the mortgage deed, subject to a minimum of Rs. 100.

Explanation - For the purpose of this article,

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

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

Exemption :-

Assignment of copyright under the Copyright Act.

19. COPY OR EXTRACT, certified to be a true copy or extract by or order of any public officer and not chargeable under the law for the time being in force. Ten rupees.
- Exemptions :-
- (a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose;
 - (b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, divorces, deaths and burials;
 - (c) Copy of any instrument, the original of which is not chargeable with duty.
20. COUNTERPART OF DUPLICATE, of any instrument chargeable with duty and in respect of which the proper duty has been paid. One hundred rupees.
- Exemption :-
- Counterpart of any lease granted to a cultivator when such lease is exempted from duty.
21. CUSTOMS BOND OR EXCISE BOND, that is to say, any bond given pursuant to the provisions of any law for the time being in force or to the directions of any officer of Custom or Excise Five hundred rupees.

for, or in respect of, any of the duties of Customs and Excise or for preventing frauds or evasions thereof or for any other matter or thing relating thereto.

22. DEBENTURE (whether a mortgage debenture or not), being a marketable security transferable by endorsement or by a separate instrument of transfer or by delivery. 0.05 percent per year of the face value of debenture, subject to a maximum of 0.25 percent or rupees 25 lakhs, whichever is lower.
23. DELIVERY ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling any person therein named, or his assigns or the holder thereof, to the delivery of any goods lying in any dock or port or in any ware house in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being executed by or on behalf of the owner of such goods, upon the sale or transfer of the property therein when such goods exceed in value five thousand rupees. Ten rupees.
24. DIVORCE, instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage. One hundred rupees.
25. EXCHANGE OF PROPERTY - Instrument of extract certified to be a true copy or extract by or order of any public officer and not chargeable under the law for the time being in force. The same duty as a conveyance (No.18) on the market value of the property of greater value, which is the subject matter of Exchange.
- Exemptions:-
- (a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.
 - (b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, divorces, deaths and burials.
 - (c) Copy of any instrument, the original of which is not chargeable with duty.
26. FURTHER CHARGE, Instrument of that is to say, any instrument imposing a further charge on mortgaged property -

- | | |
|---|---|
| <p>(a) when the original mortgage is one of the description referred to in clause (a) of Article No.35 (that is with possession);</p> <p>(b) when such mortgage is one of the description referred to in clause (b) of Article No.35 (that is, without possession)-</p> <p style="padding-left: 40px;">(i) if at the time of the execution of the instrument of further charge, the possession of the property is given or agreed to be given under such instrument;</p> <p style="padding-left: 80px;">(ii) If possession is not so given.</p> | <p>The same duty as a conveyance (No.18) for a market value equal to the amount of further charge secured by such instrument.</p> <p>The same duty as a conveyance (No.18) for a market value equal to the total amount of charge (including the original mortgage and any further charge already made) less the duty already paid on such mortgage and further charge.</p> <p>The same duty as a Bond (No.13) for the amount of the further charge secured by such instrument.</p> |
| <p>27. GIFT- Instrument of, not being a settlement (No.50) or will or transfer (No.54).</p> | <p>The same duty as a conveyance (No.18) on the market value of the property, which is the subject matter of the gift.</p> |
| <p>28. INDEMNITY BOND, that is to say, an instrument by which one person promises to save the other from loss caused to him by the conduct of promisor himself or by the conduct of any other person.</p> | <p>The same duty as security-bond (No.49) for the same amount.</p> |
| <p>29. LEASE, including an under lease, or sub-lease and any agreement to let or sub let or any renewal of lease.</p> <p style="padding-left: 40px;">(a) where by such lease, the rent is fixed and no premium is paid or delivered-</p> <p style="padding-left: 80px;">(i) where the lease purports to be for a term less than one year;</p> | <p>One percent for the whole amount payable or deliverable under such lease.</p> |

- | | |
|--|---|
| (ii) where the lease purports to be for a term of not less than one year but not exceeding five years; | Two percent for the amount of average annual rent reserved. |
| (iii) where the lease purports to be for a term exceeding five years but not exceeding ten years; | The same duty as a conveyance (No.18) for a market value equal to the amount or value of one and half times the average annual rent reserved. |
| (iv) where the lease purports to be for a term exceeding ten years but not exceeding twenty years; | The same duty as a conveyance (No.18) for a market value equal to three times the amount or value of the average annual rent reserved. |
| (v) where the lease purports to be for a term exceeding twenty years but not exceeding thirty years; | The same duty as a conveyance (No.18) for a market value equal to five times the amount or value of the average annual rent reserved. |
| (vi) where the lease purports to be for a period in excess of thirty years or in perpetuity or does not purport to be for a definite period; | The same duty as a conveyance (No.18) for a market value equal to ten times the amount or value of the average annual rent reserved. |
| (b) When the lease is granted for a fine or premium or money advanced or to be advanced and where no rent is fixed; | The same duty as a conveyance (No.18) for a market value equal to the amount or value of such fine or premium or advance as set forth in the lease. |
| (c) where the lease is granted for a fine or premium or money advanced or to be advanced in addition to rent fixed. | The same duty as conveyance (No.18) for a market value equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease, if no fine or premium or advance has been paid or delivered:
Provided also that-
(a) when an instrument of agreement to lease is stamped with the advalorem stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed. |

the duty on such lease shall not exceed one hundred rupees;

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

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

30. LETTER OF ALLOTMENT OF SHARES, in any company or proposed company or in respect of any loan to be raised by any company or proposed company. Ten rupees.
31. LETTER OF CREDIT, that is to say, any instrument by which one person authorizes another to give credit to the person in whose favour it is drawn. Ten rupees.
32. LETTER OF GUARANTEE, that is to say, any instrument by which a person makes him answerable for the debt or default of another. Five hundred rupees.
33. LETTER OF LICENCE, that is to say, any agreement between a debtor and his creditors that the latter shall for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion. Five hundred rupees.
34. MEMORANDUM OF ASSOCIATION OF A COMPANY -
(a) If accompanied by articles of association Five hundred rupees.

under the Companies Act 1956 (Central Act of 1 of 1956);

(b) If not so accompanied.

The same duty as is chargeable on Articles of Association under Article 10, according to the share capital of the company.

Exemption :-

Memorandum of any association not formed for profit and registered under the Companies Act, 1956.

35. MORTGAGE-DEED, not being an agreement relating to the deposit of title deeds, pawn or pledge (No.6), Mortgage of a crop (No.36), or a Security Bond (No.49) -

(a) when possession of the property or any part of the property comprised in such deed is given by mortgagor or agreed to be given;

The same duty as a conveyance (No.18) for a market value equal to the amount secured by such deed.

(b) when possession is not given or agreed to be given as aforesaid.

0.5 percent of the amount secured by such deed, subject to a maximum of ten lakhs.

Explanation- A mortgagor who gives to the mortgagee a power of attorney to collect rents of a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article.

(c) When a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above mentioned purpose, where the principal or primary security is duly stamped.

Five hundred rupees.

36. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage.

Ten rupees.

37. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation, certificate or entry not being a protest (No.44) executed by a Notary public in the execution of the duties of his office, or by any other person lawfully acting as a Notary public.

Ten rupees.

38. NOTE OR MEMORANDUM, sent by a broker or agent to his principal intimating the purchase or sale on account of such principal -
- (a) of any goods exceeding in value one thousand rupees; One rupee for every Rs. 10,000 or part thereof, of the value.
 - (b) of any share, scrip, stock, bond, debenture, debenture-stock or other marketable security of a like nature exceeding in value one thousand rupees, not being a Government Security; One rupee for every Rs. 10,000 or part thereof, of the value of security.
 - (c) of a Government Security. One rupee for every Rs. 10,000 or part thereof of the value of the security, subject to maximum of one thousand rupees.
39. PARTITION - Instrument of. Two percent of the amount of the market value of the separated share or shares of the property.
- Note- The largest share remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than any of the other share, then one of such equal shares) shall be deemed to be that from which the other shares are separated:
- Provided that -
- (a) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such a partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than one hundred rupees;

- (b) where the instrument relates to the partition of agricultural land exclusively, the market value for the purpose of duty shall be calculated at hundred times the annual land revenue;
- (c) where a final order for effecting a partition passed by any Revenue-authority or Civil Court or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed one hundred rupees.

40. PARTNERSHIP .

A. Instrument of -

- (a) where there is no share of contribution in partnership or where such share of contribution does not exceed Rs. 50000; One thousand rupees;
- (b) where such share of contribution is in excess of Rs. 50000. Two percent of the value or amount of shares contributed, subject to a maximum of rupees five thousand.

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

- (a) Where on dissolution of partnership or on retirement of a partner, any immovable property is taken as his share by a partner other than a partner who brought in that property as his share of contribution in the partnership; The same duty as a conveyance (No. 18) on the market value of such property;

(b) In any other case.

Five hundred rupees.

41. POLICY OF INSURANCE-

A. FIRE INSURANCE AND OTHER CLASSES OF INSURANCE, NOT ELSEWHERE INCLUDED IN THIS ARTICLE, COVERING GOODS, MERCHANDISE, PERSONAL EFFECTS, CROPS AND OTHER PROPERTY AGAINST LOSS OR DAMAGE-

(1) in respect of original policy;

Ten rupees.

(2) in respect of each receipt for any payment of a premium on any renewal of an original policy.

One half of the duty payable in respect of the original policy in addition to the amount, if any, chargeable under Article No. 54.

B. ACCIDENT AND SICKNESS-INSURANCE-

(1) in respect of an original policy-

(i) against accident on any conveyance valid for a single journey or voyage only; Exemption- When issued to a passenger traveling by the second class in any railway.

Ten rupees.

(ii) against accident valid for more than a single journey or voyage or sickness.

Ten paise for every Rs. 1,000 or part thereof of maximum amount which may become payable under it, subject to a minimum of ten rupees:

Provided that, in case of a policy of insurance against death by accident when the annual premium payable does not exceed Rs. 2.50 per Rs. 1,000, the duty on such instrument shall be five paise for every Rs. 1,000 or part thereof, the maximum amount which may become payable under it.

(2) in respect of each receipt for any payment of a premium on any renewal of an original policy.

One half of the duty payable in respect of the original policy in addition to the amount, if any,

chargeable under Article No. 54.

- C. INSURANCE BY WAY OF INDEMNITY against liability to pay damages on account of accidents to workmen employed by or under the insurer or against liability to pay compensation under the workmen compensation Act, 1923 -
- (1) in respect of original policy; Ten paise for every Rs. 100 or part thereof payable as premium.
- (2) in respect of each receipt for any payment of a premium on any renewal of an original policy. One half of the duty payable in respect of the original policy in addition to the amount, if any, chargeable under Article No. 46.
- D. LIFE INSURANCE OR GROUP INSURANCE OR OTHER INSURANCE NOT SPECIFICALLY PROVIDED FOR except such a RE-INSURANCE as is described in Division E of this article. Twenty paise for every Rs. 1,000 or part thereof, subject to a minimum of ten rupees.

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

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

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

General Exemption

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

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

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

- | | |
|--|--|
| (a) when authorizing one person or more to act in a single transaction, including a power of attorney executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents; | One hundred rupees. |
| (b) when authorizing one person to act in more than one transaction or generally, or not more than ten persons to act jointly or severally in more than one transaction or generally; | One hundred rupees. |
| (c) when given for consideration and authorizing the agent to sell any immovable property; | The same duty as a conveyance (No. 18) on the market value of the property. |
| (d) when given without consideration to a person other than the father, mother, wife or husband, son or daughter, brother or sister in relation to the executant and authorising such person to sell immovable property situated in Jammu and Kashmir. | The same duty as a conveyance (No. 18) on the market value of the property which is the subject matter of power of attorney. |
| (e) in any other case. | One hundred rupees for each person authorised. |

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

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

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

- | | |
|--|--|
| (a) When payable on demand; | Rs. 10/- |
| (b) When payable otherwise than on demand. | One fifth of the duty as applicable to a Bill of Exchange (No. 12) for same amount payable otherwise than on |

- demand, subject to a minimum of ten rupees.
44. PROTEST OF BILL OR NOTE, that is to say, any declaration in writing made by a Notary public, or other person lawfully acting as such, attesting the dishonour of a Bill of Exchange or Promissory Note. Ten rupees.
45. PROXY empowering any person to vote at any one election of the members of a local authority, or at any one meeting of (a) members of an incorporated company or other body corporate whose stock or funds is or are divided into shares and transferable, (b) a local authority, (c) proprietors, members or contributors to the funds of any institution or (d) creditors. Ten rupees
46. RECEIPT as defined by Section 2(23) for any money or other property the amount or value of which exceeds one hundred rupees. Two rupees.
- Exemptions
Receipt-
- (a) endorsed on or contained in any instrument duly stamped or any instrument exempted under the proviso to Section 3 (instruments executed on behalf of the Government) or any cheque or bill of exchange payable on demand acknowledging the receipt of the consideration money, interest or annuity or other periodical payment thereby secured;
- (b) for any payment of money without consideration;
- (c) for any payment of rent by a cultivator on account of land assessed to Government revenue;
- (d) for pay or allowances by non-commissioned officers or soldiers of the army, when serving in such capacity, or by mounted police constables;
- (e) given by holders of family certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned officer, soldier and serving in such capacity;
- (f) for pensions or allowances by persons, receiving such pensions or allowances in respect of their service as such non-

commissioned officers or soldiers and not serving the government in any other capacity;

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

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

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

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

47. RECONVEYANCE OF MORTGAGED PROPERTY. Five hundred rupees.
48. RELEASE, that is to say, any instrument (not being such a release as is provided for by section 23A) whereby a person renounces a claim upon another person, or against any specified property. Two percent on the market value of the share of the property over which the claim is relinquished, whichever is higher.
49. SECURITY BOND OR MORTGAGE DEED, where such security bond or mortgage deed is executed by way of security for the due execution of an office or to account for money or other property received by virtue thereof, or is executed by a surety to secure the due performance of a contract, or in pursuance of an order of the Court or public officer, not being otherwise provided for by the Court Fees Act. Five hundred rupees.
- Exemptions -
Bond or other instrument, when executed-
- (a) by any person for the purpose of guaranteeing that the local income derived from private subscriptions on a charitable dispensary or hospital or any other object of public utility shall not be

- less than a specified sum per mensem;
- (b) by persons taking advances under the agriculturist loans or by their sureties as security for the repayment of such advances;
- (c) by officers of the Government or their sureties to secure the due execution of an office or the due accounting for money or other property received by virtue thereof.

50. SETTLEMENT -

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

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

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

Exemption :-

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

B. REVOCATION OF.

Five hundred rupees.

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

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

Exemption :-

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

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

52. SHIPPING ORDER, for or relating to the conveyance of goods on board of any vessel. Ten rupees.
53. SURRENDER OF LEASE, Five hundred rupees.
 Explanation- For the purposes of this article it is immaterial that the surrender of the lease is only as regards the unexpired part of the term, or is with regard to only a portion of the property.
 Exemption - Surrender of lease, when such lease is exempted from duty.
54. TRANSFER- (Whether with or without consideration)
- (a) of shares in an incorporated company or other body corporate; Twenty five paise for every hundred rupees or part thereof of the value of the shares.
- (b) of debentures, being marketable securities, whether the debenture is liable to duty or not; Fifty paise for every hundred rupees or part thereof of the consideration amount of debentures.
- (c) of any interest secured by a bond, mortgage deed or policy of insurance; The same duty as a Bond (No. 13) for such amount of value of the interest subject to a maximum of five hundred rupees.
- Exemption :-
 Transfers by endorsement-
- (a) of a bill of exchange, cheque or promissory note;
- (b) of a delivery order, warrant for goods, or other mercantile document of title to goods;
- (c) of a policy of insurance;
- (d) of securities Government of India.
55. TRANSFER OF LEASE, by way of assignment and not by way of under lease. The same duty as a conveyance (No. 18) on the market value of the property which is the subject matter of the transfer.
 Explanation- In case of assignment of a mining lease, the market value shall be equal to the amount or value calculated under article 29 depending upon the period of the lease assigned.
- Exemption :-
 Transfer of any lease exempt from duty.

56. TRUST -
A. DECLARATION OF - of, or concerning any property when made by any writing not being a will
- (a) where there is disposition of property; Two percent of the market value of the property settled.
- (b) in any other case; Five hundred rupees.
- B. REVOCATION OF, or concerning any property when made by any instrument other than a will. Five hundred rupees.
57. WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named, or his assigns or the holder thereof to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be. Ten rupees.
58. Entry as an Advocate of the High Court One thousand rupees.

(sd.) Achal Sethi
Deputy Legal Remembrancer,
Department of Law, Justice and
Parliamentary Affairs.