

Himachal Pradesh Court Fees Act, 1968

8 of 1968

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Himachal Pradesh Court Fees Act, 1968

(Received the assent of the President of India on the 30 th April, 1968, and was published in R.H.P. Extra., dated the 29 th October, 1968 at p. 1099- 1130.) An Act to levy Court Fees, in the 2 [State] of Himachal Pradesh. Amended, repealed or otherwise affected by,- (i) A.O. 1973, published in R.H.P. Extra., dated the 20th January, 1970 at p. 91-112. (ii) H.P. Act No. 8 of 1974. (iii) H.P. Ordinance No. 4 of 2004 replaced by H.P. Act No. 1 of 2005 3 assented to by the Governor 23 rd January, 2005 and published in Hindi and English in R.H.P. Extra., dated 24 th January, 2005 at pages 3541-3542 Effective w.e.f. 26 th October, 1 For Statement of Objects and Reasons, see R.H.P. Extra., dated the 30 th January, 1968, p. 101 and for its authoritative Hindi Text see R.H.P. Extra, 24-11-90 at p. 2297. 2 Subs, for "Union territory" by A. O. 1973. 3 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P. Extra., dated 22.12.2004, p. 2798 & 2802. 4 2004.. BE it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows :-

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Himachal Pradesh Court Fees Act, 1968.
- (2) It extends to the whole of the 2 [State] of Himachal Pradesh.
- (3) It shall come into force at once.

2. Definitions :-

In this Act, unless the context otherwise requires,-

- (a) "High Court" means the High Court of 1 [Himachal Pradesh];
- (b) "Official Gazette" means the Rajpatra, Himachal Pradesh;
- (c) "State Government" means 2 [The Government of Himachal Pradesh].

CHAPTER 2 FEES IN THE HIGH COURT

3. Levy Of Fees In The High Court :-

The fees payable for the time being to the clerks and officers of the High Court or chargeable in that court under No. 9 of the First, and Nos. 7, 10, 11, 16 and 17 of the Second Schedule to this Act annexed shall be collected in the manner hereinafter appearing.

4. Fees On Documents Filed, Etc., In The High Court In Its Ordinary And Extra-Ordinary Jurisdiction :-

No document of any of the kinds specified in the First or Second Schedule to this Act annexed, as chargeable with fees, shall be filed, exhibited or recorded in, or shall be received or furnished by the High Court in any case coming before such court.-

(a) in the exercise of its ordinary or extra-ordinary original civil jurisdiction; or

(b) in the exercise of its jurisdiction as regards appeal from the courts subject to its superintendence: or

(c) in the exercise of its jurisdiction as a court of reference or revision; or

(d) in the exercise of its jurisdiction to issue directions, orders or writs under the Constitution of India; or

(e) in the exercise of its jurisdiction in any other manner unless in 1 Subs. for the words "Delhi," *ibid*.

2 Subs. for the words "the Lieutenant Governor of the Union Territory of Himachal Pradesh", *bid*. 5 respect of such document there be paid a fee of an amount not less than that indicated by either of the said Schedules as the proper fee for such document.

5. Procedure In Case Of Difference As To Necessity Or Amount Of Fee :-

(1) When any difference arises between the officer whose duty it is to see that any fee is paid under this chapter and any suitor or attorney, as to the necessity of paying a fee or the amount thereof, the question shall when the difference arises in the High Court be referred to the Taxing Officer, whose decision thereon shall be final, except when the question is, in his opinion, one of general importance, in which case he shall refer it to the final decision of the Chief Justice of the High Court or of such Judge of the High Court as the Chief Justice shall appoint either generally or specially in this behalf.

(2) The Chief Justice of the High Court shall declare who shall be the Taxing Officer for the purposes of sub-section (1).

CHAPTER 3 FEES IN OTHER COURTS AND IN PUBLIC OFFICES

6. Fees On Documents Filed, Etc., In Mofussil Courts Or In Public Offices :-

Except in the High Court, no document of any of the kinds specified as chargeable in the First or Second Schedule to this Act annexed

shall be filed, exhibited in any court of Justice, or shall be received or furnished by any public officer, unless in respect of such document there be paid a fee of an amount no less than that indicated by either of the Schedules as the proper fee for such document.

7. Computation Of Fees Payable In Certain Suits :-

The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows:-

(i) for money.-In suits for money (including suits for damages or compensation, or arrears of maintenance, annuities, or of other sums payable periodically)-according to the amount claimed;

(ii) for maintenance and annuities.-(a) In suits for maintenance and annuities or other sums payable periodically-according to the value of the subject matter of the suit, and such value shall be deemed to be ten times the amount claimed to be payable for one year;

(d) In suits for reduction or enhancement of maintenance and annuities or other sums payable, periodically-according to the value of the subject matter of the suit and such value shall be deemed to be ten times the amount sought to be reduced or enhanced for one year;

(iii) for other movable property having a market value.-In suits for movable property other than money, where the subject matter has a market value-according to such value at the date of presenting the plaint;

(iv) In suits-

(a) for movable property of no market value.-for movable property where the subject-matter has no market-value, as, for instance, in the case of documents relating to title;

(b) to enforce a right to share in joint family property.-to enforce the right to share in any property on the ground that it is joint family property;

(c) for a declaratory decree and consequential relief.-to obtain a declaratory decree or order, where consequential relief is prayed;

(d) for an injunction.-to obtain an injunction;

(e) for easements.-for a right to some benefit (not herein otherwise provided for) to arise out of land; and

(f) for accounts.-for accounts; according to the amount at which the relief sought is valued in the plaint or memorandum of appeal; In all such suits the plaintiff shall state the amount at which values the relief sought:

Provided that the minimum court-fee in each case shall be thirteen

rupees:

Provided further that in suit coming under sub-clause (c), in cases here the relief sought is with reference to any property, such valuation shall not be less than the value of the property calculated in the manner provided for by paragraph (v) of this section.

(v) for possession of lands, houses and gardens.-In suits for the possession of lands, houses and gardens-according to the value of the subject-matter and such value shall be deemed to be where the subject-matter is land, and-

(a) where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government; or forms part of such an estate and is recorded in the Collectors register as separately assessed with such revenue, and such revenue is permanently settled-ten times the revenue so payable;

(b) where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government or forms part of such estate and is recorded as aforesaid; and such revenue is settled, but not permanently-ten times the revenue so payable;

(c) where the land pays no such revenue, or has been partially 7 exempted from such payment, or is charged with any fixed payment in lieu of such revenue; and net profits have arisen from the land during the year next before the date of presenting the plaint-fifteen times such net profits, but where no such net profits have arisen therefrom-the amount at which the court shall estimate the land with reference to the value of similar land in the neighbourhood;

(d) where the land forms part of an estate paying revenue to Government, but is not a definite share of such estate and is not separately assessed as above mentioned-the market-value of the land;

Explanation.-The word "estate", as used, in this paragraph means any land subject to the payment of revenue, for which the proprietor or a farmer or ryot shall have executed as separate engagement to Government, or which, in the absense of such engagement, shall have been separately assessed with revenue

(e) for houses and gardens.-Where the subject-matter is house or garden-according to the market-value of the house or garden;

(v) to enforce a right of pre-emption.-In suits to enforce a right of pre-emption according to the value [computed in accordance with paragraph (v) of this section] of the land, house or garden in respect of which the right is claimed;

(vi) for interest of assignee of land revenue.-In suits for the

interest of an assignee of land revenue-fifteen times his net profit as such for the year next before the date of presenting the plaint;
(vii) to set aside an attachment.-In suits to set aside an attachment of land or of an interest in land or revenue-according to the amount for which the land or interest was attached:

Provided that, where such amount exceeds the value of the land or interest, the amount of fee shall be computed as if the suit were for the possession of such land or interest;

(ix) to redeem.-In suits against a mortgagee for the recovery of the property mortgaged-according to half the principal money expressed to be secured by the instrument of mortgage; to foreclose.-and in suits by mortgagee to foreclose the mortgage, or, where the mortgage is made by conditional sale, to have the sale declared absolute-according to the principal money expressed to be secured by the instrument of mortgage;

(x) for specific performance.-In suits for specific performance,-

(a) of a contract of sale-according to the amount of the consideration; 8

(b) of a contract of mortgage-according to the amount agreed to be secured;

(c) of a contract of lease-according to the aggregate amount of the fine or premium (if any) and of the rent agreed to be paid during the first year of the term;

(d) of an award-according to the amount or value of the property in dispute;

(xi) between landlord and tenant.-In the following suits between landlord and tenant-

(a) for the delivery by tenant of the counterpart of lease;

(b) to enhance the rent of a tenant having a right of occupancy;

(c) for the delivery by a landlord of a lease;

(d) for the recovery of immovable property from a tenant, including a tenant holding over after the determination of a tenancy;

(e) to contest a notice of ejectment;

(f) to recover the occupancy of immovable property from which a tenant has been illegally ejected by the landlord; and

(g) for abatement of rent- according to the amount of the rent of the immovable property to which the suit refers, payable for the year next before the date of presenting the plaint.

8. Fee On Memorandum Of Appeal Against Order Relating To Compensation :-

The amount of fee payable under this Act on a memorandum of

appeal against an order relating to compensation under any Act for the time being in force for the acquisition of land for public purposes, shall be computed according to the difference between the amount awarded and the amount claimed by the appellant.

9. Power To Ascertain Net Profits Of Market-Value :-

If the court sees reason to think that the annual net profits or the market-value of any such land, house or garden as is mentioned in section 7 paragraphs (v) and (vi) have or has been wrongly estimated, the court may, for the purpose of computing the fee payable in any suit therein mentioned, issue a commission to any proper person directing him to make such local or other investigation as may be necessary, and to report thereon to the court.

10. Procedure Where Net Profits Or Market-Value Wrongly Estimated :-

(1) If in the result of any such investigation the court finds that the net profits or market-value have or has been wrongly estimated, the court, if 9 the estimation has been excessive, may in its discretion refund the excess paid as such fee; but, if the estimation has been insufficient, the court shall require the plaintiff to pay so much additional fee as would have been payable had the said market-value or net profits been rightly estimated.

(2) In such case the suit shall be stayed until the additional fee is paid and if the additional fee is not paid within such time as the court shall fix, the suit shall be dismissed.

11. Procedure In Suits For Mesne Profits Or Account When Amount Decreed Exceeds Amount Claimed :-

(1) In suits for mesne profits or for immovable property and mesne profits, or for an account, if the profits or amount decreed is in excess of the profits claimed or the amount at which the plaintiff values the relief sought, the decree shall not be drawn up until the difference between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits or amount so decreed shall have been paid to the proper officer.

(2) Where the amount of mesne profits is left to be ascertained in the course of the execution of the decree, if the profits so ascertained exceed the profits claimed, the further execution of the decree shall be stayed until the difference between the fee actually

paid and the fee which would have been payable had the suit comprised the whole of the profits so ascertained is paid if the additional fee is not paid within such time as the court shall fix, the suit shall be dismissed.

12. Decision Of Questions As To Valuation :-

(1) Every question relating to valuation for the purpose of determining the amount of any fee chargeable under this Chapter on a plaint or memorandum of appeal shall be decided by the court in which such plaint or memorandum, as the case may be, is filed, and such decision shall be final as between the parties to the suit.

(2) But whenever any such suit comes before a court of appeal, reference or revision, if such court considers that the said question has been wrongly decided to the detriment of the revenue, it shall require the party by whom such fee has been paid to pay so much additional fee as would have been payable had the question been rightly decided, and the provisions of subsection (2) of section 10 shall apply.

13. Refund Of Fee Paid On Memorandum Of Appeal :-

If an appeal or plaint, which has been rejected by the lower court on any of the grounds mentioned in the Code of Civil Procedure 1908 (5 of 1908), is ordered to be received, or if a suit is remanded in appeal under Order XLI, Rule 23, of the First Schedule to that Code for a second decision by the lower court, the appellate court shall grant to the appellant a certificate, authorising him to receive back from the Collector the full amount of fee paid on the memorandum of appeal:

Provided that if, in the case of a remand in appeal, the order of demand shall not cover the whole of the subject-matter of the suit, the certificate so granted shall not authorise the appellant to receive back more than so much fees as would have been originally payable on the part or parts of such subject matter in respect whereof the suit has been remanded.

14. Refund Of Fee On Application For Review Of Judgment :-

Where an application for a review of judgment is presented on or after the ninetieth day from the date of the decree, the court, unless the delay was caused by the applicants laches, may, in its discretion, grant him a certificate authorising him to receive back from the Collector so much of the fee paid on the application as

exceeds the fee which would have been payable had it been presented before such day.

15. Refund Where Court Reverses Or Modifies Its Former Decision On Ground Of Mistake :-

Where an application for review of judgment is admitted, and where, on the rehearing the court reverses or modifies its former decision on the ground of mistake in law or fact, the applicant shall be entitled to a certificate from the court authorising him to receive back from the Collector so much of the fee paid on the application as exceeds the fee payable on any other application to such court under No. 1, clause (b) or clause (d) of the Second Schedule to this Act, but nothing in the former part of this section shall entitle the applicant to such certificate where the reversal or modification is due, wholly or in part, to fresh evidence which might have been produced at the original hearing.

16. Multifarious Suits :-

Where a suit embraces two or more distinct subjects, the plaint or memorandum or appeal shall be chargeable with the aggregate amount of the fees to which the plaints or memoranda of appeal in suits embracing separately each of such subjects would be liable under this Act. Nothing in the former part of this section shall be deemed to affect the power conferred by Order II- Rule 6, of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908).

17. Written Examinations Of Complainants :-

When the first or only examination of person who complains of the offence of wrongful confinement, or of wrongful restraint, or of any offence other than an offence for which police officers may arrest without a warrant and who has not already presented a petition on which a fee has been levied under this Act, is reduced to writing under the provisions of the Code of Criminal Procedure, 1898 [5 of 1898] 1 , the complainant shall pay a fee of one rupee and twentyfive paise, unless the court thinks fit to remit such payment.

18. Exemption Of Certain Documents :-

Nothing contained in this Act shall render the following documents chargeable with any fee:-

- (i) Power-of-attorney to institute or defend a suit when executed by a member of any of the Armed Forces of the Union not in Civil employment.
- (ii) Written statements called for by the court after the first hearing of a suit.

- (iii) Probate of a will and letters of administration, where the amount or value of the property in respect of which the probate or letters shall be granted does not exceed one thousand rupees.
- (iv) Application or petition to a Collector or other officer making a settlement of land-revenue, or to a Board of Revenue, or a Commissioner of Revenue, relating to matters connected with the assessment of land, or the ascertainment of rights thereto or interests therein, if presented previous to the final confirmation of such settlement.
- (v) Application relating to a supply for irrigation of water belonging to Government.
- (vi) Application for leave to extend cultivation, or to relinquish land, when presented to an officer of land revenue by a person holding, under direct engagement with Government, land of which the revenue is settled, but not permanently.
- (vii) Application for service of notice of relinquishment of land or of enhancement of rent.
- (viii) Written authority to an agent to distrain.
- (ix) First application (other than a petition containing a criminal charge or information) for the summons of a witness or other person to attend either to give evidence or to produce a document, or in respect of the production or filing of an exhibit not being an affidavit made for the immediate purpose of being produced in court.
- (x) Bail-bonds in criminal cases, recognizances to prosecute or give evidence, and recognizances for personal appearance or otherwise.
- (xi) Petition, application, charge or information respecting any offence, when presented, made or laid to or before a police officer.
- (xii) Petition by a prisoner, or other person in duress or under restraint of any court or its officers.
- (xiii) Complaint of a public servant as defined in the Indian Penal Code, 1860 (45 of 1860), a municipal officer, or an officer or servant of Railway Company.
- (xiv) Application for permission to cut timber in Government forests, or otherwise relating to such forests.
- (xv) Application for the payment of money due by Government to the applicant.
- (xvi) Petition of appeal against any municipal tax.
- (xvii) Applications for compensation under any law for the time being in force relating to the acquisition of property for public purposes.

(xviii) Petitions under the Indian Christian Marriage Act, 1872 (15 of 1872), sections 45 and 48.

CHAPTER 4 PROBATES, LETTERS OF ADMINISTRATION AND CERTIFICATES OF ADMINISTRATION

19. Relief Where Too High A Court Fee Has Been Paid :-

Where any person on applying for probate of a will or letters of administration has estimated the property of the deceased to be of greater value than the same has afterwards proved to be, and has consequently paid too high a court fee thereon, if within six months after the true value of the property has been ascertained, such person,-

- (a) produces the probate or letters to the Chief Controlling Revenue Authority for the local area in which the probate or letters has or have been granted;
- (b) delivers to such authority a particular inventory and valuation of the property of the deceased, verified by affidavit or affirmation; and
- (c) if such authority is satisfied that a greater fee was paid on the probate or letters than the law required, the said authority may-
 - (a) cancel the stamp on the probate or letters, if such stamp has not been already cancelled;
 - (b) substitute another stamp for denoting the court-fee which should have been paid thereon; and
 - (c) make an allowance for the difference between them as in the case of spoiled stamps, or repay the same in money, at his discretion.

20. Relief Where Debts Due From A Deceased Person Have Been Paid Out Of His Estate :-

Whenever it is proved to the satisfaction of the authority referred to in section 19 that an executor or administrator has paid debts due from the deceased to such an amount as, being, deducted out of the amount value of the estate, reduces the same to a sum which, if it had been the whole gross amount or value of the estate, would have occasioned a less court-fee to be paid on the probate or letters of administration granted in respect of such estate than has been actually paid thereon under this Act, such authority may return the difference, provided the same be claimed within three years after the date of such probate or letters. But when, by reason of any legal proceeding, the debts due from the deceased have not been ascertained and paid, or his effects have not been recovered

and made available, and in consequence thereof the executor or administrator is prevented from claiming the return of such difference within the said term of three years, the said authority may allow such further time for making the claim as may appear to be reasonable under the circumstances.

21. Relief In Case Of Several Grants :-

(1) Whenever a grant of probate or letters of administration has been or is made in respect of the whole of the property belonging to an estate, and the full fee chargeable under this Act has been or is paid thereon, no fee shall be chargeable under the same Act when a like grant is made in respect of the whole or any part of the same property belonging to the same estate.

(2) Whenever such a grant has been or is made in respect of any property forming part of an estate, the amount of fees then actually paid under this Act shall be deducted when a like grant is made in respect of property belonging to the same estate, identical with or including the property to which the former grant relates.

22. Probates Declared Valid As To Trust Property Though Not Covered By Court-Fees :-

The probate of the will, or the letters of administration of the effects of any person deceased heretofore or hereafter granted shall be deemed valid and available by his executors or administrators for recovering, transferring or assigning any movable or immovable property whereof or whereto the deceased was possessed or entitled, either wholly or partially as a trustee, notwithstanding the amount or value of such property is not included in the amount or value of the estate in respect of which a court-fee was paid on such probate or letters of administration.

23. Provision For Case Where Too Low A Court-Fee Has Been Paid On Probates Etc :-

Where any person on applying for probate or letters of administration has estimated the estate of the deceased to be of less value than the same has afterward proved to be, and has in consequence paid too low a court-fee thereon, the Chief Controlling Revenue Authority for the local area in which the probate or letters has or have been granted may, on the value of the estate of the deceased being verified by affidavit or affirmation, cause the probate or letters of administration to be duly stamped on payment of the full court-fee which ought to have been originally paid

thereon in respect of such value and the further penalty, if the probate or letters is or are produced within one year from the date of the grant, of five times, or if it or they is or are produced after one year from such date, of twenty times, such proper courtfee, without any deduction of the court-fee originally paid on such probate or letters:

Provided that, if the application be made within six months after ascertainment of the true value of the estate and the discovery that too low a court-fee was at first paid on the probate or letters, and if the said authority is satisfied that such fee was paid in consequence of a mistake or of its not being known at time that some particular part of the estate belonged to the deceased, and without any intention of fraud or to delay the payment of the proper courtfee, the said authority may remit the said penalty, and cause the probate or letters to be duly stamped on payment only of the sum wanting to make up the fee which should have been at first paid thereon.

24. Administrator To Give Proper Security Before Letters Stamped Under Section 23 :-

In case of letters of administration on which too low a court- fee has been paid at first, the said authority shall not cause the same to be duly stamped in the manner referred to in 5.23 until the Administrator has given such security to the court by which the letters of administration have been granted as ought by law to have been given on the granting thereof in case the full value of the estate of the deceased had been then ascertained.

25. Executions, Etc., Not Paying Full Court-Fee On Probates Etc., Within Six Months After Discovery Of Under-Payment :-

Where too low a court-fee has been paid on any probate or letters of administration in consequence of any mistake, or of its not being known at the time that some particular part of the estate belonged to the deceased, if any executor or administrator acting under such probate or letters does not, within six months after the discovery of the mistake or of any effects not known at the time to have belonged to the deceased, apply to the said authority and pay what is wanting to make up the court-fee which ought to have been paid at first on such probate or letters, he shall forfeit the sum of one thousand rupees and also a further sum at the rate of ten rupees percent, on the amount of the sum wanting to make up the proper court-fee.

26. Notice Of Applications For Probate Or Letters Of Administration To Be Given To Revenue Authorities And Procedure Thereon :-

(1) Where an application for probate or letters of administration is made to any court other than the High Court, the court shall cause notice of the application to be given to the Collector.

(2) Where such an application as aforesaid is made to the High Court, that court shall cause notice of the application to be given to the Chief Controlling Revenue Authority.

(3) The Collector within the local limits of whose revenue jurisdiction the property of the deceased or any part thereof, is, may at any time inspect or cause to be inspected, and take or cause to be taken copies of, the record of any case in which application for probate or letters of administration has been made; and if, on such inspection or otherwise, he is of opinion that the petitioner has under-estimated the value of the property of the deceased, the Collector may, if he thinks fit, require the attendance of the petitioner (either in person or by agent) and take evidence and inquire into the matter in such manner as he may think fit, and, if he is still of opinion that the value of the property has been under-estimated, may require the petitioner to amend the valuation.

(4) If the petitioner does not amend the valuation to the satisfaction of the Collector, the Collector may move the court before which the application for probate or letters of administration was made, to hold an inquiry into the true value of the property: Provided that no such motion shall be made after the expiration of six months from the date of the exhibition of the inventory required by section 317 of the Indian Succession Act, 1925 (39 of 1925).

(5) The court, when so moved as aforesaid, shall hold, or cause to be held, an inquiry accordingly and shall record a finding as to the true value, as near as may be, at which the property of the deceased should have been estimated and the Collector shall be deemed to be a party to the inquiry.

(6) For the purposes of any inquiry under sub-section (5), the court or any person authorised by the court to hold the inquiry may examine the petitioner for probate or letters of administration on oath (whether in person or by commission), and may take such further evidence as may be produced to prove the true value of the property and such person shall return to the court the evidence taken by him and report the result of the inquiry and such report

and the evidence so taken shall be evidence in the proceeding, and the court may record a finding in accordance with the report, unless it is satisfied that it is erroneous.

(7) The finding of the court recorded under sub-section (5) shall be final, but shall not bar the entertainment and disposal by the Chief Controlling Revenue Authority of any application under section 23.

(8) The State Government may make rules for the guidance of Collectors in the exercise of the powers conferred by sub-section (3).

27. Payment Of Court-Fee In Respect Of Probates And Letters Of Administration :-

(1) No order entitling the petitioner to the grant of probate or letters of administration shall be made upon an application for such grant until the petitioner has filed in the court a valuation of the property in the form set forth in the Third Schedule, and the court is satisfied that the fee mentioned in No. 9 of the First Schedule has been paid on such valuation.

(2) The grant of probate or letters of administration shall not be delayed by reason of any motion made by the Collector under sub-section (4) of section 26.

28. Recovery Of Penalties Etc :-

(1) Any excess fee found to be payable on an inquiry held under sub-section (6) of section 26 and any penalty or forfeiture under section 25 may, on the certificate of the Chief Controlling Revenue Authority, be recovered from the executor or administrator as if it were an arrear of land revenue by any Collector. 16

(2) The Chief Controlling Revenue Authority may remit the whole or any part of any such penalty or forfeiture as aforesaid, or any part of any penalty under section 23 or of any court-fee under section 23 in excess of the full court-fee which ought to have been paid.

29. Sections 6 And 37 Not To Apply To Probates Or Letters Of Administration :-

Nothing in section 6 or section 37 shall apply to probates or letters of administration.

CHAPTER 5 PROCESS FEES

30. Rules As To Costs Of Processes :-

(1) The High Court shall, as soon as may be, make rules as to the following matters, namely:-

(a) the fees chargeable for serving and executing processes issued by such court in its appellate jurisdiction, and by the other civil courts established within the local limits of such jurisdiction;

(b) the fees chargeable for serving and executing processes issued by the criminal courts established within such limits in the case of offences other than offences for which police officers may arrest without a warrant; and

(c) the remuneration of the peons and all other persons employed with the leave of a court in the service or execution of processes.

(2) The High Court may from time to time alter or add to the rules made under sub-section (1).

(3) All rules made under sub-section (1) and all alterations and additions made under sub-section (2) shall, after being confirmed by the State Government, be published in the Official Gazette, and shall thereupon have the force of law.

(4) Until any rules are made and published under this section, the fees leviable immediately before the commencement of this Act for serving and executing processes shall continue to be levied, and shall be deemed to be fees leviable under this Act.

31. Exemption For Certain Processes :-

(1) Notwithstanding anything contained in section 30 or in the rules made thereunder, no fees shall be charged for serving and executing processes on behalf of-

(a) the prosecution in any criminal proceedings, taken on information presented or complaint made by a public officer acting in his official capacity; and

(b) a liquidator or an arbitrator appointed under the provisions of 17 1 [the Himachal Pradesh Co-operative Societies Act, 1956 (13 of 1956)]

(2) The State Government may by notification in the Official Gazette determine what persons shall be deemed to be public officers for the purpose of sub-section (1).

32. Tables Of Process Fees :-

A table in the English and vernacular languages, showing the fees chargeable for serving and executing processes shall be exposed to view in a conspicuous part of each Court.

33. Number Of Peons In District And Subordinate Courts :-

(1) Subject to such rules as may be made by the High Court and approved by the State Government every District Judge and every Magistrate of a District shall fix, and may, from time to time, alter the number of peons necessary to be employed for the service and execution of processes issued out of his court and each of the courts subordinate thereto.

(2) For the purposes of this section, every court of Small Causes established under section 5 of the Provincial Small Cause Courts Act, 1887, (9 of 1887) shall be deemed to be subordinate to the Court of the District Judge.

CHAPTER 6 OF THE MODE OF LEVYING FEES

34. Collection Of Fees By Stamps :-

All fees referred to in section 3 or chargeable under this Act shall be collected by stamps: Provided that if the presiding Judge or the Head of the Office as the case may be or in the case of the High Court, any Judge of such court, may if he is satisfied that court-fees stamps are not available with the Stamp Vendor on the date of filing of the document to be stamped, order that the court-fees be collected in cash in any Government treasury and the receipt or challan therefor shall be duly given by the officer-in-charge thereof; and any such receipt or challan may be used for the purposes of this Act and the rules thereunder, as if the receipt or challan were a stamp duly issued under this Act by the State Government for the amount paid.

35. Stamps To Be Impressed Or Adhesive :-

The stamps used to denote any fees chargeable under this Act shall be impressed, or adhesive, or partly impressed and partly adhesive, as the State Government may, by notification in the Official Gazette, from time to time, direct.

36. Rules For Supply, Number, Renewal And Keeping Accounts Of Stamps :-

(1) The State Government may, from time to time, make rules for regulating-

- (a) the supply of stamps to be used under this Act;
- (b) the number of stamps to be used for denoting any fee chargeable under this Act;
- (c) the renewal of damaged or spoiled stamps; and
- (d) the keeping accounts of all stamp used under this Act: Provided

that, in the case of stamps used under section 3 in the High Court, such rules shall be made with the concurrence of the Chief Justice of such court.

(2) All rules made under sub-section (1) shall be published in the Official Gazette, and shall thereupon have the force of law.

37. Stamping Documents Inadvertently Received :-

No document which ought to bear a stamp under this Act shall be of any validity, unless and until it is properly stamped, but if any such document is through mistake or inadvertence received, filed or used in any court or office, without being properly stamped, the presiding Judge or the head of the office, as the case may be, or in the case of the High Court, any Judge of such court, may, if he thinks fit, order that such document be stamped as he may direct; and, on such document being stamped accordingly, the same and every proceeding relative thereto shall be as valid as if it had been properly stamped in the first instance.

38. Amended Document :-

Where any such document is amended in order merely to correct a mistake and to make it conform to the original intention of the parties, it shall not be necessary to impose a fresh stamp.

39. Cancellation Of Stamp :-

(1) No document requiring a stamp under this Act shall be filed or acted upon in any proceeding in any court or office until the stamp has been cancelled.

(2) Such officer as the court or the head of the office may from time to time appoint shall, on receiving any such document, forthwith effect such cancellation by punching out the figure-head so as to leave the amount designated on the stamp untouched, and the part removed by punching shall be burnt or otherwise destroyed.

CHAPTER 7 MISCELLANEOUS

40. Admission In Criminal Cases Of Documents For Which Proper Fee Has Not Been Paid :-

Whenever the filing or exhibition in a criminal court of a document in respect of which the proper fee has not been paid is, in the opinion of the presiding Judge, necessary to prevent failure of justice, nothing contained in section 4 or section 6 shall be deemed to prohibit such filing or exhibition.

41. Sale Of Stamps :-

(1) The State Government may from time to time make rules 1 for regulating the sale of stamps to be used under this Act, the 1 Rules framed vide Not. No. 17-3/67-Rev-I, dated the 29 th March, 1974 (Appended). persons by whom alone such sale is to be conducted, and the duties and remuneration of such persons.

(2) All such rules shall be published in the Official Gazette, and shall thereupon have the force of law.

(3) Any person appointed to sell stamps who disobeys any rule made under this section, and any person not so appointed who sells or offers for sale any stamp, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

42. Power To Enhance, Reduce, Remit Or Refund Fees :-

The State Government may, by notification in the Official Gazette, enhance, reduce, remit or refund, all or any of the fees provided in this Act or specified in the First and Second Schedules appended to the Act; or otherwise amend the said Schedules and may in the like manner rescind or amend such notification.

43. Saving Of Fees To Certain Officers Of The High Court :-

Nothing in Chapters II and VI of this Act shall apply to the fees which any officer of the High Court is allowed to receive in addition to a fixed salary.

44. Repeal And Savings :-

The Court-fees Act, 1870 (7 of 1870) as extended to the Union territory of Himachal Pradesh by the notification of the Government of India in the Ministry of Home Affairs No. GSR-517/(F4/4/63- UTL 65), dated 18th March, 1964 and the Court-fees Act, 1870 (7 of 1870) as in force in the territories transferred to that Union territory under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966) are hereby repealed: Provided that such repeal shall not affect-

(a) the previous operation of the said Acts or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said Acts; or

(c) any penalty, forfeiture or punishment, incurred in respect of any offence committed against the said Acts; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment

as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the said Acts had not been repealed.

45. Levy Of Fees In Certain Suits Etc. Instituted Before The Commencement Of This Act :-

(1) Notwithstanding anything contained in the Acts repealed under section 44, fees shall be levied in suits or other proceedings instituted on or after the 1 st day of May, 1967 and pending immediately before the commencement of this Act in the High Court by virtue, and in the exercise of its ordinary original civil jurisdiction as if this Act had been in force on the respective dates on which any such proceedings were instituted.

(2) Any fees levied in respect of suits or other proceedings instituted before the High Court by virtue, and in the exercise, of its ordinary original civil jurisdiction on or after the 1 st day of May, 1967 and disposed of before the commencement of this Act shall be deemed to have been levied in accordance with law.

SCHEDULE 1

THE FIRST SCHEDULE

SCHEDULE 2

THE SECOND SCHEDULE

SCHEDULE 3

THE THIRD SCHEDULE