

JAMMU AND KASHMIR COURT FEES ACT, 1977

7 of 1977

[1]

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short title and extent
2. Chief Controlling Revenue Authority
3. Collector

CHAPTER 2 :- FEES IN THE HIGH COURT

4. Fees in documents filed in High Court
5. Procedure in case of difference as to necessity or amount of court-fee

CHAPTER 3 :- FEES IN OTHER COURTS AND IN PUBLIC OFFICES

6. Fees on documents filed, etc., in mufassil Courts or in public offices
7. Computation of fees payable in certain suits
8. Fee on memorandum of appeal against order relating to compensation
9. Power to ascertain net profits or market-value
10. Procedure where net profits or market-value wrongly estimated
11. Procedure in suits for mesne profits or account when amount decreed exceeds amount claimed
12. Decision of question as to valuation
13. Refund of fee paid on memorandum of appeal
14. Refund of fee on application for review of judgment
15. Refund where Court reverses or modifies its former decision on ground of mistake
16. 22
17. Multifarious suits
18. Written examination of complainants
19. Exemption of certain documents

CHAPTER 3A :- PROBATES, LETTERS OF ADMINISTRATION AND CERTIFICATES OF ADMINISTRATION

- 19A. Relief where too high a court-fee has been paid
- 19B. Relief where debts due from a deceased person have been paid out of his estate
- 19C. Relief in case of several grants
- 19D. Probates declared valid as to trust property though not covered by court-fee
- 19E. Provision for case where too low a court-fee has been paid on probate, etc
- 19F. Administrator to give proper security before letters stamped under section 19E
- 19G. Executors, etc., not paying full court-fee on probates, etc., within six months after discovery of underpayment
- 19H. Notice of applications for probate or letters of administration to be given to Revenue Authorities, and procedure thereon
- 19I. Payment of court-fees in respect of probates and letters of administration
- 19J. Recovery of penalties, etc
- 19K. Sections 6 and 28 not to apply to probates or letters of administration

CHAPTER 4 :- PROCESS FEES

20. Rules as to costs of processes
21. Tables of process-fees
22. Number of peons in District and subordinate Courts
23. Number of peons in Revenue Courts
24. 24

CHAPTER 5 :- OF THE MODE OF LEVYING FEES

25. Collection of fees by stamps
26. Stamps to be impressed or adhesive
27. Rules for supply, number, renewal and keeping accounts of stamp
28. Stamping document inadvertently received
29. Amended document
30. Cancellation of stamps

CHAPTER 6 :- MISCELLANEOUS

31. Repayment of fees paid on applications to Criminal Courts
32. 32
33. Admission in criminal cases of documents for which proper fee has not been Paid
34. Sale of stamps
35. Power to reduce or remit fees

SCHEDULE 1 :- 1

SCHEDULE 2 :- Ad valorem fees

SCHEDULE 3 :- Table of rates of ad valorem fees leviable on the institution of suits.

SCHEDULE 4 :- 4

SCHEDULE 5 :- FORM OF VALUATION (TO BE USED WITH SUCH MODIFICATIONS, IF ANY, AS MAY BE NECESSARY)

JAMMU AND KASHMIR COURT FEES ACT, 1977

7 of 1977

[]

CHAPTER 1 PRELIMINARY

1. Short title and extent :-

(i) This Act may be called the Court-fees Act No. VII of Samvat 1977.

(ii) It extends to the whole of the State of Jammu and Kashmir.

2. Chief Controlling Revenue Authority :-

The Revenue Minister or a Minister for the time being in charge of the Revenue Administration of the State shall be the "Chief Controlling Revenue Authority" for the purposes of administration of Court-fees laws.

3. Collector :-

In this Act unless there is anything repugnant in the subject or context, "Collector" shall mean the Deputy Commissioner of a District.

CHAPTER 2 FEES IN THE HIGH COURT

4. Fees in documents filed in High Court :-

No document of any of the kinds specified in the first or Second Schedule to the Court-fees Act No. 7 of 1977 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 it in the exercise of its extraordinary original civil jurisdiction; or in the exercise of its extraordinary original criminal jurisdiction; or in the exercise of its ordinary original civil jurisdiction; or in the exercise of its jurisdiction as regards appeal from the judgment passed under ordinary original civil jurisdiction of the High Court; or in the exercise of its powers as a Court of appeal from Courts subject to its superintendence; or in the exercise of its jurisdiction as a Court of reference or revision; unless in 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 court-fee :-

It shall be the duty of the Registrar of the High Court to see that proper fee is paid under this Chapter. If any difference arises between the said officer and any suitor or counsel as to the necessity of paying a fee or the amount thereof the question shall be referred to the said Registrar and his decision shall be final. When, however, the question is in the opinion of the Registrar one of general importance he shall refer it for the final decision of the Chief Justice or such Judge of the High Court as the Chief Justice shall appoint either generally or specially in this behalf.

CHAPTER 3 FEES IN OTHER COURTS AND IN PUBLIC OFFICES

6. Fees on documents filed, etc., in mufassil Courts or in public offices :-

No document of any of the kinds specified as chargeable in the First or Second Schedule to this Act annexed shall be filed, exhibited or recorded 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 not less than that indicated by either of the said 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 of annuities, or of other sums payable periodically)- according to the amount claimed;

(ii) for maintenance and annuities; In suit 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;

(iii) for other moveable property having a market value; In suits for moveable 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 moveable property of no market-value; for moveable 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, (this does not apply to a suit for partition by metes and bounds);

(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 he values the relief sought.

(v) for possession of lands, houses and gardens; In suits for the possession of land, 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) [Omitted.]

(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 separately assessed with such revenue; - eight times the revenue so payable,

(c) where the land pays no such revenue, or has been partially exempted from such payment, is a Jagir or a Dharmarth property 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 profit : 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, the market-value of the land;

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

(vi) 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;

(vii) for interest of assignee of land revenue; In suits for the interest of an assignee of land revenue - fifteen times his net profits as such for the year next before the date of presenting the plaint; In suits for Haq-i-Lambardari, maqaddymi or a similar right - eight times the income of the Haq or right;

(viii) 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; to foreclose; and in suits by a 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;

(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 a tenant of the counterpart of a lease,

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

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

(cc) for the recovery of immoveable property from a tenant including a tenant holding over after the determination of a tenancy,

(d) to contest a notice of ejectment,

(e) to recover the occupancy of immoveable property from which tenant has been illegally ejected by the landlord, and

(f) for abatement of rent- according to the amount of the rent of the immoveable 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 or 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 5 and 6, 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 :-

(i) If in the result of any such investigation the Court finds that the market-value has been wrongly estimated, the Court, if 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.

(ii) In such case the suit shall be stayed until the additional fee is paid. 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 :-

In suits for mesne profits or for immovable property and mesne profits, or for an account, if the profits or amount decreed are or is in excess of the profits claimed or the amount at which the plaintiff valued the relief sought, the decree shall not be executed 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. 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: ¹ [Provided that, in suits under the Agriculturists' Relief Act, 1983 , the decree shall be executed to the extent of the amount of the instalments which have become due on payment of the additional court-fee, if any, which is found payable when calculated on the amount for which execution is sought.]

1. Added by J. K. Act XI of 1988.

12. Decision of question as to valuation :-

(i) 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.

(ii) 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 section 10 , paragraph (ii), 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, is ordered to be received, or if a suit is remanded in appeal, on any of the grounds mentioned in Order XLI, Rule 23 of the same 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 remand 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 fee 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 applicant's 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 a 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 the Second Schedule to this Act No. 1 clause (b) or clause (d). 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. 22 :-

Omitted.]

17. Multifarious suits :-

Where a suit embraces two or more distinct subjects, the plaint or memorandum of 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 OR.2R.6 of the Code of Civil Procedure, 1908

18. Written examination of complainants :-

When the first or only examination of a person who complains of the offence of wrongful confinement, or of wrongful restraint, or of any offence other than an offence for which the 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, the complainant shall pay a fee of one rupee, unless the Court thinks fit to remit such payment.

19. 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 an officer, warrant officer, non-commissioned officer or private of the Government's army not in civil employment.
- (ii) [Omitted.]
- (iii) Written statements called for by the Court after the first hearing of a suit.
- (iv) to (vii) [Omitted.]
- (viii) Probate of a will, letters of administration, where the amount or value of the property in respect of which the probate or letters or certificate shall be granted does not exceed one thousand rupees.
- (ix) Application or petition to a Collector or other officer making a settlement of land revenue or to the Revenue Minister, 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.
- (ix-a) Applications, appeals to the Income-tax Department in proceedings relating to assessment of income-tax or objections thereto.
- (x) Application relating to a supply for irrigation of water belonging to Government.
- (xi) 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.
- (xii) Application for service of notice of relinquishment of land or of enhancement of rent.
- (xiii) Written authority to an agent to distrain.
- (xiv) 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 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.
- (xv) Bail bonds in criminal cases, recognizances to prosecute or give evidence, and recognizances for personal appearance or otherwise.
- (xvi) Petition, application, charge or information respecting any offence when presented, made or laid to or before a Police Officer.
- (xvi-a) Petition in a criminal case in which the Police may arrest without warrant.
- (xvi-b) Copy to which Article 9 of the First Schedule of this Act applies furnished to an accused person in a warrant case.
- (xvii) Petition by a prisoner, or other person in duress or under restraint of any Court or its officers.
- (xviii) Complaint of a public servant (as defined in the Ranbir Dand Bidhi) a Municipal Officer, or of an official acting under Birds and Animals Game Protection Rules for breach of such rules.
- (xix) Application for permission to cut timber in Government forests, or otherwise relating to such forests
- .
- (xx) Application for the payment of money due by Government to the applicant.
- (xxi) [Omitted.]
- (xxii) Application for compensation under any law for the time being in force relating to the acquisition of property for public purposes.
- (xxiii) [Omitted.]

19A. Relief where too high a court-fee has been paid :-

Where any person on applying for the 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 produces the probate or letters to the Revenue Minister, and delivers to such authority a particular inventory and valuation of the property of the deceased, verified by affidavit or affirmation, and 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 letter 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.

19B. Relief where debts due from a deceased person have been paid out of his estate :-

Whenever it is proved to the satisfaction of such authority that an executor or administrator has paid debts due from the deceased to such an amount as, being deducted out of the amount or 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 proceedings, 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.

19C. Relief in case of several grants :-

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. 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.

19D. Probates declared valid as to trust property though not covered by court-fee :-

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.

19E. Provision for case where too low a court-fee has been paid on probate, 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 afterwards proved to be and has in consequence paid too low a court-fee thereon, the Revenue Minister 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 of 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 court-fee 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 the 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 the 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 court-fee, 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.

19F. Administrator to give proper security before letters stamped under section 19E :-

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 manner aforesaid until the administrator has given such security to the Court by which the letters of administration have been granted as sought 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.

19G. Executors, etc., not paying full court-fee on probates, etc., within six months after discovery of underpayment :-

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 of 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 effect 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 per cent on the amount of the sum wanting to make up the proper court-fee.

19H. 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, the High Court shall cause notice of the application to be given to the Revenue Minister.
- (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 underestimated 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 underestimated, 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 98 of the Probate and Administration Act.
- (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. The Collector shall be deemed to be a party to the inquiry.
- (6) For the purposes of any such inquiry, the Court or 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. The person authorised as aforesaid to hold the inquiry 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 Revenue Minister of any application under section 19-E.
- (8) The Government may make rules for the guidance of Collectors in the exercise of the powers conferred by sub-section (3).

19I. Payment of court-fees 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. 11 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 section 19H, sub-section (4).

19J. Recovery of penalties, etc :-

- (1) Any excess fee found to be payable on an inquiry held under Section 19H, sub-section (6), and any penalty or forfeiture under Section 19-G may, on the certificate of the Revenue Minister, be recovered from the executor or administrator as if it were an arrear of land revenue by any Collector in any part of the State.
- (2) The Revenue Minister may remit the whole or any part of any such penalty of forfeiture as aforesaid, or any part of any penalty under section 19-E or of any court-fee under section 19-E, in excess of the full court-fee which ought to have been paid.

19K. Sections 6 and 28 not to apply to probates or letters of administration :-

Nothing in section 6 or section 28 shall apply to probates or letters of administration.

CHAPTER 4
PROCESS FEES

20. Rules as to costs of processes :-

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

- (i) 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;

(ii) the fees chargeable for serving and executing processes issued by the Criminal Court established within such limits in the case of offences other than offences for which Police Officers may arrest without a warrant; and

(iii) the remuneration of the peons and all other persons employed by leave of a Court in the service or execution of processes. The High Court may from time to time alter and add to the rules so made.

Confirmation and publication of rules All such rules, alterations and additions shall, after being confirmed by the Government, be published in the Government Gazette, and shall thereupon have the force of law. Until such rules shall be so made and published, the fees now leviable for serving and executing processes shall continue to be levied, and shall be deemed to be fees leviable under this Act.

21. Tables of process-fees :-

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

22. Number of peons in District and subordinate Courts :-

Subject to rules to be made by the High Court and approved by the 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 this Court and each of the Courts subordinate thereto. Number of peons in Small Cause Court and for the purposes of this section, every Court of Small Causes shall be deemed to be subordinate to the Court of the District Judge.

23. Number of peons in Revenue Courts :-

Subject to rules to be framed by the Revenue Minister and approved by the Government, every officer performing the functions of a Collector 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 or the Courts subordinate to him.

24. 24 :-

Omitted.]

CHAPTER 5

OF THE MODE OF LEVYING FEES

25. Collection of fees by stamps :-

All fees referred to in Section 3 or chargeable under this Act shall be collected by stamps.

26. 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 Government may, by notification in the Government Gazette, from time to time direct,

27. Rules for supply, number, renewal and keeping accounts of stamp :-

The 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 stamps used under this Act

All such rules shall be published in the Government Gazette, and shall thereupon have the force of law.

28. Stamping document 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, 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.

29. 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.

30. Cancellation of stamps :-

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. 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 of the figurehead so as to leave the amount designated on the stamp untouched and the part removed by punching shall be burnt or otherwise destroyed.

CHAPTER 6

MISCELLANEOUS

31. Repayment of fees paid on applications to Criminal Courts :-

(i) Whenever an application or petition containing a complaint or charge of an offence, other than an offence for

which Police officers may arrest without warrant, is presented to a Criminal Court, the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay to the complainant the fee, paid on such application or petition.

(ii) In the case mentioned in Section 18 , the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay to the complainant the fee if any, paid by the latter for the examination.

(iii) When the complainant has paid fees for serving processes in either of the cases mentioned in the first and second paragraphs of this section the Court if it convict accused person, shall, in addition to the penalty imposed upon him to repay such fees to the complainant.

(iv) All fees ordered to be repaid under this section may be recovered as if they were fines imposed by the Court.

32. 32 :-
Omitted.]

33. 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 a failure of justice, nothing contained in section 6 shall be deemed to prohibit such filing or exhibition.

34. Sale of stamps :-

(1) The Government may from time to time make rules for regulating the sale of stamps to be used under this Act, under a licence on payment of fee to be prescribed, the 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 Government 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.

35. Power to reduce or remit fees :-

The Government may, from time to time by notification in the Government Gazette reduce or remit in the whole or in any part of the State, all or any of the fees mentioned in the First and Second Schedule to this Act annexed, and may in like manner cancel or vary such order. The enactments mentioned in the schedule given below are repealed to the extent specified therein.

SCHEDULE 1

1

	Number and year
Title Extent of Repeal Council Resolution No. Dharmarth department. The whole. 11 of 1901. Exemption from payment of Court and Process Fee and Stamp duty Council Resolution No. Exemption from payment of court- The whole. 8 of 1902. Resolution fee and stamp duty in case No. 31 of 1892. of municipalities.	

SCHEDULE 2

Ad valorem fees

	Number
proper fee When the amount or value of subject- Six annas. matter in dispute does not exceed five rupees. When such amount or value exceeds Six annas. five rupees, but does not exceed five hundred rupees, for every five rupees or part thereof in excess of five rupees up to one hundred rupees. When such amount or value exceeds Twelve one hundred rupees, but not exceed annas. 1. Plaint- hundred rupees, for every ten Written statements rupees or part thereof in excess of pleading a set-off one hundred rupees up to five hundred or counter-claim rupees. or memorandum of When such amount or value exceeds One rupees appeal (not other- five hundred rupees, for every ten two annas. wise provided for rupees or part thereof upto one thousand rupees in this Act) or sand rupees. of cross-objecti- When such amount or value exceeds Seven rupee on presented to one thousand rupees, for every one eight annas. any Civil or hundred rupees or part thereof in ex- Revenue Court. cess of one thousand rupees up to five thousand rupees. When such amount or value exceeds Fifteen five thousand rupees, for every two rupees. hundred and fifty rupees or part thereof in excess of five thousand rupees up to ten thousand rupees. When such amount or value exceeds ten Twenty-two thousand rupees, for every five hundred rupees eight rupees or part thereof in excess of ten annas. thousand rupees up to twenty thousand rupees. When such amount of value exceeds Thirty rupees. twenty thousand rupees, for every one thousand rupees or part thereof in excess of twenty thousand rupees up to thirty thousand rupees. When such amount or value exceeds Thirty rupees. thirty thousand rupees, for every two thousand rupees, or part thereof, in excess of thirty thousand rupees up to fifty thousand rupees. When such amount or value exceeds Thirty rupees. fifty thousand rupees for every five thousand rupees or part thereof in excess of fifty thousand rupees. Number Proper fee 2. Plaint in a A fee of one half the suit for posses- amount prescribed in sion under (the ... the foregoing scale. Specific Relief The fee leviable on Act, section 9.) the plaint or memor- suit for posses- andum of appeal. sion under (the Specific Relief Act, Sction 9.) ... 3. [Omitted.] 4. Application for review of judg- ment, if presented on or after the ninetieth day from the date of the decree. 5. Application for review of judg- ment, if present- ed before the nin- etieth day from the date of the decree. 6. Copy of transl- (a)-If the amount of the subject- Four annas. ation of a judgment matter is fifty or less then or order not being fifty rupees. or having the force (b)-If such amount or value exce- Eight annas. of a decree. eds fifty rupees. (a)-If such amount or value of the Eight annas. subject-matter of the suit wh- erein such decree or order is made is fifty or less than fifty rupees. 7. Copy of a dec- (b)-If such amount or value exce- One rupees. ree or order hav- eds fifty rupees. ing the force of When such decree or order is made Four rupees. a decree. the High Court. 8. Copy of any (a)-When the stamp duty chargeable The amount of the document liable on the original does not exc- duty chargeable on to stamp duty eed eight annas. the original. under the State (b)-In any other case. Eight annas. Stamp Act, when left by any party to a suit or proc- eeding in place of the original with- drawn. 9. Copy of any Twelve annas. revenue or judicial proceeding or order not otherwise provided for by this Act, or copy of any account, statement, report or the like taken out of any Civil or Criminal or Revenue Court or office. 10. [Omitted. If the amount or value of the Two per cent. on such property in respect of which amount or value. the grant of probate or letter is made exceeds one thousand rupees, but does not exceed ten thousand rupees. When such amount or value excee- Two and one-half per ds ten thousands rupees but cent. on such amou- does not exceed fifty thousand nt or value. rupees. When such amount or value exce- Three per cent. on eds fifty thousand rupees. such amount or value. 11. Probate of a Provided	

Fixed Fees. Number Proper fee Application or petition. [Vol. 15] 5 A. M. 54 Two annas. Two annas. (a) When presented to any Sub-Registrar or any officer of the Customs or Excise Department or to any Magistrate by any person having dealings with the Government, and when the subject-matter of such application relates exclusively to those dealings; or when presented to any officer of land revenue by any person holding temporarily settled land under direct engagement with Government, and when the subject-matter of the application or petition relates exclusively to such engagement; or when presented to any Municipal Commissioner under any Act for the time being in force for the conservancy or improvement of any place, if the application or petition relates solely to such conservancy or improvement; or when presented to any Civil Court other than a principal Civil Court of original jurisdiction, or to any Court of Small Causes or to a Collector or other officers of revenue in relation to any suit or case in which the amount or value of the subject-matter is less than fifty rupees; or when presented by any Civil, Criminal or Revenue Court, or Registration office for the purpose of obtaining a copy or translation of any judgment, decree or order passed by such Court, or of any other document on record in such Court or Office. (b) When containing a complaint or charge of any offence other than an offence for which Police Officers may, under the Criminal Procedure Code, arrest without warrant and presented to any Criminal Court; or when presented to a Civil, Criminal or One rupee Revenue Court or to a Registrar under the Registration Act or to a Collector, or any Revenue officer having jurisdiction equal or subordinate to a Collector, or to any Magistrate or the head of any Department other than a Minister in his executive capacity and not otherwise provided for by this Act; or to deposit in court revenue or rent; or for determination by a court of the amount of compensation to be paid by landlord to his tenant. (c) When presented to a Minister in his executive capacity and not otherwise provided for by this Act. . (d) When presented to the High Court- (i) Under

the Companies Act. 1977, for Two rupees. One hundred rupees. Number Exemptions, - 1. Petitions from widows, orphans and Military Pensioners when submitted to the Sadar-i-Riya- sat, to Council of Ministers. 2. Applications for employment in Government service when sent in response to Government adver- tisement. 3. Petitions from pensioners with regard to their pensions. 4. Applications by Civil and Military Officers regarding questions aris- ing out of the service such as appli- cations for grant of increments, transfer, leave etc. 5. Applications for scholarships. Proper fee winding up a Company. (ii) Under the same Act for taking some Five rupees. other judicial action. (iii) In all other cases not otherwise pro- Two rupees. vided for by this Act. (e) When presented or addressed to the Two rupees. Sadar-i-Riyast and not otherwise pro- vided for by this Act. schools, Makhtabs and Pathshalas.. Section 27 of the J. and K. Constitution as amende 7. Applications for grant of loans from Provident Fund for house building or purchase of motor-car. 8. Petitions from widows and orphans for grant of compassionate allow- ance. 9. Applications for enquiries receiv- ed from contractors and licensees arising out of the operations of such contractors and licences but not applications for any conces- sions or remissions. 10. Applications from the public or public bodies for repairs to drains, roads, ghats, bathing places or stand-pipes or for provision of light and water whether in towns in rural areas. 11. Applications from Muafidars or Mukarraridars for payment or settlement of their pending claims. 12. Applications for registration of arms. 13. Applications made by Officer-in- charge Kashmir Willows to the Customs Officer for purposes of securing attestation of import and export certificate. Number Proper fee 1-A. Application to any Civil Court that records may be called from another Court. 2. Application for leave to sue as a pauper. 3. Application for leave to appeal as pauper. When the Court grants the application and is of opinion that the transmission invol- ves the use of post. (a)-When presented to a Lower Court. (b)-When presented to a District Court or the High Court or the Revenue Minister. Twelve annas, in addition to any fee levi- able on the application under clauses (a) and (b) of Art. 1 to this Schedule. Eight annas. One rupee. Two rupees. 11. [Omitted.] Plaint or memorandum of appeal in a suit to establish or disprove a right of occupancy. Bail-bond or other instrument of obligation given in the absence of any other provision in this Act. [Omitted]. [Omitted]. [Omitted]. Mukhtarnama or Wakalatnama or any paper signed by an Advocate signifying or intimating that he is retained for a party. Memorandum of appeal when the appeal is not from a decree or an order having the force of a decree, and is presented. When presented for the conduct of any one case,- (a)-to the Sadar-i-Riyasat. the High Court or a Minister. (b)-to the District or Sessions Court. (c)-to any other Civil, Criminal or Rev- enue Court or Revenue Office. (a)-to the Sadar-i-Riyasat or the High Court or a Minister. (b)-to the District or Sessions Court. (c)-to any other Civil or Revenue Court or Revenue Office. One rupee. One rupee. Two rupees. Two rupees. One rupee. One rupee. Four rupees. One rupee. One rupee. 12. [Omitted]. 13. [Omitted]. 14. [Omitted]. 15. [Omitted]. 16. [Omitted]. 17. Plaint or memorandum of appeal in each of the following suits :- i. (a) to alter or set aside a sum- mary decision or order of a Civil Court. (b) to alter or set aside a sum- mary decision or order of a Revenue Court, not other- wise provided for. ii. to alter or cancel any entry in a register of the names of proprie- tors of revenue-paying estates; iii. to obtain a declaratory decree where no consequential relief is prayed; Ten rupees. Ten rupees. Ten rupees. iv. to set aside an award; v. to set aside an adoption; vi. every other suit where it is not possible to estimate at a money value the subject-matter in dis- pute, and which is not otherwise provided for by this Act; vii. an appeal from a preliminary ... Ten rupees. decree passed under Rule 13, 15, 16 or 18(b) of Order XX of the Code of Civil Procedure. 18. Application under Schedule II, Para 17 of the Code of Civil Proce- dure. 19. Agreement in writing staling a ... Ten rupees. question for the opinion of the Court under Code of Civil Procedure, 1908. 20. [Omitted.] 21. Plaint or memorandum of appeal in ... Five rupees. a suit for restitution of conjugal rights or custody of a wife. 22. Plaint or memorandum of appeal in ... Twenty rupees. a suit by a reversioner under the Customary Law for a declaration in respect of an alienation of ancestral land.

SCHEDULE 5

FORM OF VALUATION (TO BE USED WITH SUCH MODIFICATIONS, IF ANY, AS MAY BE NECESSARY)

IN THE COURT OF Reprobate of the will of , (or admission of the property and credits of,) deceased. Solemnly affirm I make oath, and say that I am the executor (or one of the executors or one of the next kin) of deceased and that I have truly set forth in Annexure A to this affidavit all the property and credits of which the above named deceased died possessed or was entitled to at the time of his death, and which have come, or are likely to come, to my hands. 2. I further say that I have also truly set forth in Annexure B all the items I am by law allowed to deduct 3. I further say that the said assets, exclusive only of such last mentioned items, but inclusive of all rents, interest, dividends and increased values since the date of the death of the said deceased, are under the value of.