

## **Bombay Stamp (Amendment) Act, 2005**

**32 of 2005**

**[07 May 2005]**

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## **Bombay Stamp (Amendment) Act, 2005**

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### PREAMBLE

An ACT further to amend the Bombay Stamp Act, 1958

WHEREAS both Houses of the State Legislature were not in session;  
AND WHEREAS the Governor of Maharashtra was satisfied the circumstances existed which rendered it necessary for him to take immediate action further to amend the Bombay Stamp Act, 1958, for the purposes hereinafter appearing; and therefore, promulgated the Bombay Stamp (Amendment) Ordinance, 2005, on the 7th May 2005;

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature with the incorporation of some minor modifications; it is hereby enacted in the Fifty-sixth Year of the Republic of India as follows:--

### **1. Short Title And Commencement :-**

(1) This Act may be called the Bombay Stamp (Amendment) Act, 2005.

(2) It shall be deemed to have come into force on the 7th May, 2005.

### **2. Amendment Of Section 2 Of Bom. Lx Of 1958 :-**

In section 2 of the Bombay Stamp Act, 1958 (hereinafter referred to as "the principal Act"),--

(1) to clause (i), the following Explanation shall be added, namely:--  
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"Explanation.-- The terms "signed" and "signature" also include attribution of electronic record as per section 11 of the Information Technology Act, 2000;"

(2) to clause (1), the following Explanation shall be added, namely:--

"Explanation.-- The term "document" also includes any electronic record as defined in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000;"

### **3. Amendment Of Section 4 Of Bom. Lx Of 1958 :-**

In section 4 of the principal Act,--

(1) in sub-section (1),--

(i) after the words "of any" the words "development agreement," shall be inserted;

(ii) after the words "the conveyance," the words "development agreement," shall be inserted;

(2) in the marginal note, after the words "transaction of the words "development agreement," shall be inserted.

### **4. Insertion Of Section 10B In Bom. Lx Of 1958 :-**

After section 10A of the principal Act, the following section shall be inserted, namely:--

"10B. Stock exchange etc. to deduct stamp duty from trading members account.-

Notwithstanding anything contained in this Act, in case of transactions through stock exchange or an association as defined in clause (a) of section 2 of the Forward Contracts (Regulation) Act, 1952, the stock exchange or, as the case may be, an association, shall collect the due stamp duty by deducting the same from the trading members account at the time of settlement of such transactions. The stamp duty so collected shall be transferred to the Government Treasury, Sub-Treasury or General Stamp Office in the manner specified by the Chief Controlling Revenue Authority.

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

## **5. Amendment Of Schedule I Of Bom. Lx Of 1958 :-**

In Schedule I appended to the principal Act,--

(1) in article 1, in clause (1), sub-clauses (a) and (b) shall be deleted;

(2) in article 5,--

(A) in clause (b), in column (2), for the portion beginning with the words "One rupee" and ending with the words "one thousand", the following shall be substituted, namely:--

"Fifty paise for every rupees 1,00,000 or part thereof of the value of security at the time of its purchase or sale, as the case may be.";

(B) in clause (d), in column (2), for the portion beginning with the words "One rupee" and ending with the words "part thereof.", the following shall be substituted, namely:--

"One rupee for every rupees 10,000 or part thereof of the value of cotton.";

(C) in clause (e), in column (2), for sub-clauses (a), (b) and (c), the following shall be substituted, namely:--

"One rupee for every rupees 10,000 or part thereof of the value of silver or gold or sovereigns, as the case may be.";

(D) in clause (f), in column (2), for the portion beginning with the words "One rupee" and ending with the words "part thereof.", the following shall be substituted namely:--

"One rupee for every rupees 10,000 or part thereof of the value of oil seeds.";

(E) in clause (g), in column (2), for the portion beginning with the words "One rupee" and ending with the words "Official Gazette", the following shall be substituted, namely:--

"One rupee for every rupees 10,000 or part thereof of the value of yarn of any kind, non-mineral oil or spices of any kind, as the case may be.";

(F) clause (g-a) shall be renumbered as sub-clause (i) thereof, and after sub-clause (i) as so renumbered, the following sub-clause shall be added, namely:--

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(ii) if relating to the purchase of one or more units in any scheme or project by a person from a developer: Provided that, on conveyance of property by the person, under an agreement under this sub-clause, to the subsequent	Same duty as is leviable on conveyance under clauses
---	--

purchaser, the duty chargeable for each unit under this sub-clause shall be adjusted against the duty chargeable under article 25 (conveyance) after keeping the balance of one hundred rupees, if such transfer or assignment is made within a period of three years from the date of the agreement. If on adjustment, no duty is required to be paid, then the minimum duty for the conveyance shall be rupees one hundred.	(a), (b), (c) or (d), as the case may be, of article 25 on the market value of the unit.";
Explanation.-- For the purposes of this sub-clause, the unit shall include a flat, apartment, tenement, block or any other unit by whatever name called, as approved by the Competent Authority in the building plan.	

(G) For clause (h), the following clause shall be substituted, namely:--

"(h) (A) if relating to,--

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(i) any advertisement on mass media, made for promotion of any product; or programme or event with an intention to make profits or business out of it.	Two rupees and fifty paise for every rupees 1,000 or part thereof on the amount agreed in the contract Subject to minimum of rupees 100 and maximum of rupees 10,00,000.
(ii) conferring exclusive rights of telecasting, broad-casting or exhibition of an event or a film.	Two rupees and fifty paise for every rupees 1,000 or part thereof on the amount agreed in the contract subject to minimum of rupees 100 and maximum of rupees 10,00,000.
(iii) specific performance by any person or a group of persons where the value of contract exceeds	Two rupees and fifty paise for every rupees 1,000 or part thereof on the amount agreed in the contract subject to maximum of rupees 10,00,000.
(iv) creation of any obligation, right or interest and having monetary value, but not covered under any other article.	Two rupees and fifty paise for every rupees 1,000 or part thereof on the amount agreed in the contract subject to minimum of rupees 100 and maximum of rupees 10,00,000.
(v) assignment of copyright under the Copyright Act, 1957.	Two rupees and fifty paise for every rupees 1,000 or part thereof on the amount agreed in the contract of the value signed for such assignment subject to minimum of rupees 100 and maximum of rupees 10,00,000.
(B) if not otherwise provided for,--	One hundred rupees.;
Explanation.-- No duty shall be chargeable on agreements or its record covered under sub-clauses (b) and (c) of this article, if proper duty is paid under article 51A.	

(3) in article 6,--

(A) in clause (1), in column (2),--

(i) for the words "five hundred" the words "one thousand" shall be substituted;

(ii) for the words "five lakh rupees" the words "ten lakh rupees" shall be substituted;

(B) in clause (2), in column (2),--

(i) for the words "five hundred" the words "one thousand" shall be substituted;

(ii) for the words "five lakh rupees" the words "ten lakh rupees" shall be substituted;

(4) in article 11, in column (1), in the clause relating to "ASSIGNMENT", for the words "See Conveyance" the words, figures and letters "See Development Agreement [Article 5 (g-a), Conveyance" shall be substituted;

(5) in article 25, in column (1),--

(i) in Explanation II, in paragraph (i), after the words "name called", the following words shall be added at the end, namely:--  
"as approved by the Competent Authority in the building plan";

(ii) the existing Explanation III shall be renumbered as para, (i) thereof and after para (i) as so renumbered, the following para, shall be added, namely:--

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"(ii) For the purposes of clause (da), the number of shares issued or allotted in exchange or otherwise shall mean, the number of shares of the transferor company accounted as per exchange ratio as on appointed date.";	
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(6) in article 27, in column (2), for the words "rupees twenty" the words "rupees one hundred" shall be substituted;

(7) in article 29, in column (1), the following Explanation shall be added, namely:--  
"Explanation.-- For the purposes of this article, the words "dock or port" shall include "Airport" and "Cargo Hub.";

(8) in article 31, in column (1), for the words and figures "Bombay Registration of Marriages Act, 1953" the words and figures "Maharashtra Regulation of Marriage Bureaus and Registration of Marriages Act, 1998" shall be substituted;

(9) in article 32, in column (1), the following Explanation shall be added, namely:--  
"Explanation.-- For the purposes of this article, notwithstanding anything contained hereinabove, the highest duty on either of the property exchanged shall be chargeable.";

(10) in article 33, in clause (b), in sub-clause (ii), in column (2),--

(i) for the words "five hundred" the words "one thousand" shall be substituted;

(ii) for the words "five lakh rupees" the words "ten lakh rupees" shall be substituted;

(11) for article 36, the following article shall be substituted, namely:--

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"36. LEASE, including under-lease or sub-lease and any agreement to let or sub-let or any renewal of lease,--	
where such lease purports to be--	
(i) for a period not exceeding five years.	The same duty as it leviable on a conveyance under clause (a), (b), (c) or (d), as the case may be, of article 25, on 10 per centum of the market value of the property.

(ii) for a period exceeding five years but not exceeding ten years, with a renewal clause contingent or otherwise.	The same duty as it leviable on a conveyance under clause (a), (b), (c) or (d), as the case may be, of article 25, on 25 per centum of the market value of the property.
(iii) for a period exceeding ten years but not exceeding twenty-nine years, with a renewal clause contingent or otherwise	The same duty as it leviable on a conveyance under clause (a), (b), (c) or (d), as the case may be, of article 25, on 50 per centum of the market value of the property.
(iv) for a period exceeding twenty-nine years or in perpetuity, or does not purport for any definite period, or for lease for a period exceeding twenty-nine years, with a renewal clause contingent or otherwise.	The same duty as it leviable on a conveyance under clause (a), (b), (c) or (d), as the case may be, of article 25, on 90 per centum of the market value of the property.";
Explanation. I.-- Any consideration in the form of premium or money advanced or to be advanced or security deposit by whatever name called shall, for the purpose of market value, be treated as consideration passed on.	
Explanation II.-- The renewal period, if specifically mentioned, shall be treated as part of the present lease.	
Explanation III.-- For the purpose of this article, the market value, for the instruments falling under section 2(n)(iii) (Toll agreements) and article 5 (g-e) (Hire Purchase Agreement), shall be the total contract value and they shall be chargeable to duty same as under clause (a) of article 25.	

(12) in article 36A,--

(A) in clause (a),--

(i) in column (1), for the words "thirty three months" the words "sixty months" shall be substituted;

(ii) in columns (1) and (2), for the words "eleven months" wherever they occur, the words "twelve months" shall be substituted;

(iii) in sub-clause (i),--

(a) before entry (A), the following paragraph shall be inserted, namely:--

"(1) if relating to residential premises,--";

(b) in entry (C), in column (1), after the words "five lakh" the words "but does not exceed rupees ten lakh" shall be inserted;

(c) after entry (C), the following entry shall be inserted, namely:--

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(D) where the amount of average annual rent plus the amount of security deposit or money advanced or to be advanced exceeds rupees ten lakhs for a single term of twelve months.	Five thousand rupees for every term of twelve months or part thereof;;
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(d) after entry (D) so inserted, the following paragraph shall be inserted, namely:-  
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"(2) if relating to nonresidential premises.	Twice the amount of duty chargeable for residential premises under entry (A), (B), (C) or (D) above, as the case may be;;
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(iv) in sub-clause (ii),--  
(a) before entry (A), the following paragraph shall be inserted, namely:--  
"(1) if relating to residential premises,";  
(b) after entry (C), the following paragraph shall be inserted, namely:--

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"(2) if relating to nonresidential premises	Twice the amount of duty chargeable for residential premises under entry (A), (B), or (C) above, as the case may be;;
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(v) in sub-clause (iii),--  
(a) before entry (A), the following paragraph shall be inserted, namely:--  
"(1) if relating to residential premises,--";  
(b) after entry (C), the following paragraph shall be inserted, namely:--

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"(2) if relating to nonresidential premises	Twice the amount of duty chargeable for residential premises under entry (A), (B), or (C) above, as the case may be;;
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(B) for clause (b), the following clause shall be substituted, namely:--

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"(b) where such leave and licence agreement purports to be for a period exceeding sixty months with or without renewal clause.	Same duty as is leviable on lease under clause (ii), (iii) or (iv), as the case may be, of article 36;;
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(13) in article 40, in clause (b), in column (2),--  
(i) for the words "five hundred" the words "one thousand" shall be substituted;  
(ii) for the words "five lakh rupees" the words "ten lakh rupees" shall be substituted;  
(14) in article 43,--  
(A) in clause (a), in column (2), for the words and figures "unit of transaction of

4,500 kilograms or part thereof.", the following shall be substituted, namely:--  
 "Rupees 10,000 or part thereof, on the value of cotton.";  
 (B) in clause (b), in column (2), for sub-clauses (a), (b) and (c), the following shall be substituted, namely:--  
 "One rupee for every rupees 10,000 or part thereof, on the value of silver or gold or sovereigns, as the case may be.";  
 (C) in clause (c), in column (2), for the words, figures and letters "10,000 kilograms of oil seeds.", the following shall be substituted, namely:--  
 "rupees 10,000 or part thereof, on the value of oil seeds.";  
 (D) in clause (d), in column (2), for the portion beginning with the words "yarn of any kind" and ending with the words "Official Gazette.", the following shall be substituted, namely:--  
 "yarn of any kind, non-mineral oils or spices of any kind, as the case may be.";  
 (E) in clause (e), in column (2), for the words "part thereof.", the following shall be substituted, namely:--  
 "part thereof on the value of goods.";  
 (F) in clause (g), in column (2), for the portion beginning with the words, "One rupee" and ending with the words "one thousand rupees.", the following shall be substituted, namely:--  
 "fifty paise for every rupees 1,00,000 or part thereof, on the value of security.";  
 (G) in column (1), the following Explanation shall be added at the end, namely:--  
 Explanation.-- No duty shall be chargeable on note or Memorandum sent by broker or agent to his principal intimating the purchase or sale on account of such principal of a security or a forward contract on which proper duty is paid under article 51A.";  
 (15) after Article 51, the following article shall be inserted, namely:--

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"51A. Record of Transaction	
(Electronic or otherwise) effected by a trading member through a stock exchange or the association referred to in section 10B--	
(a) if relating to sale and purchase of Government securities.	Fifty rupees for every rupees one crore or part thereof of the value of security.
(b) if relating to purchase or sale of securities, other than those falling under item (a) above,--	
(i) in case of delivery	One rupee for every rupees 10,000 or part thereof.
(ii) in case of non-delivery	Twenty paise for every rupees 10,000 or part thereof.
(c) if relating to futures and options trading	Twenty paise for every rupees 10,000 or part thereof.
(d) if relating to forward contracts of commodities traded through an association or otherwise.	One rupee for every rupees 1,00,000 or part thereof.";
Explanation,-- For the purpose of clause (b), "securities" means the securities as defined in clause	



(h) of section 2 of the Securities Contract (Regulation) Act, 1956.	
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(16) for Article 52, the following article shall be substituted, namely:--

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"52. RELEASE, that is to say any instrument (not being an instrument as is provided by section 24) whereby a person renounces a claim upon other person or against any specified property.	Five rupees for every five hundred rupees or part thereof, on the market value of subject matter of property:
	Provided that, the provisions of section 32A shall, mutatis mutandis, apply to such release or arrangement of like nature as they apply to an instrument under that section.";

(17) in Article 59; in column (2), the words "subject to a maximum of ten thousand rupees" shall be deleted.

## **6. Repeal Of Mah. Ord. Ii Of 2005 And Saving :-**

(1) The Bombay Stamp (Amendment) Ordinance, 2005, hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said ordinance shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.