

## **RAJASTHAN STAMP ACT, 1998**

**14 of 1999**

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**SCHEDULE 1 :-RATES OF STAMP DUTY APPLICABLE TO RAJASTHAN**

**RAJASTHAN STAMP ACT, 1998**

to consolidate and amend the law relating to Stamps in State of Rajasthan. Be it enacted by the Rajasthan State Legislature in the Forty-ninth Year of the Republic of India as follows-- Notes The Rajasthan Stamp Act deals with the law relating to stamp and stamp duties in the State of Rajasthan. This Act is divided into 8 chapter containing 91 sections. An Act to consolidate and amend the law--This act is a consolidating and amending law relating to stamp and stamp duties in the State of Rajasthan. The word "consolidation" means to "collect " and therefore an act to consolidate and amend the law means to collect the relevant provisions of law as to stamp duty so also to amend the same. This act is therefore, an exhaustive piece of legislation. Object of the Act--The stamp Act is fiscal enactment, its primary object is to collect revenue (AIR 1927 Mad 786). The object of stamp Act is to prevent evasion of revenue (AIR 1921 Sind 80). This Act come into force w.e.f. 27.5.2004 vide notification No. F2 (3) FD Tax Div /98-11 dated 27.05.2004 (Received the assent of the President on 24th day of March, 1999)

#### CHAPTER 1

Preliminary Preliminary Preliminary Preliminary

### **1. Short title, extent and commencement :-**

(1) This Act may be called the Rajasthan Stamp Act, 1998. (2) It extends to whole of the State of Rajasthan. (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

### **2. DefinitionS :-**

In this Act, unless there is something repugnant in the subject or context, (i) "air rights" shall mean rights to construct upper floors for sale and use, independent of the existing building; 1"(ia) association means any association of person, exchange broker, or any other organisation or body of persons, whether incorporated or not, and regulating or controlling or conducting business of the sale or purchase of, or other transaction relating to, any goods or marketable securities". (ii) "Banker" means an association, a company or a person who accepts, for the purpose of lending or investment, deposits of money from the public, repayable on demand or otherwise, and withdrawal by cheque, draft, order or otherwise within the territories of India; (iii) "bill of exchange" means a bill of exchange as defined by the Negotiable Instruments Act, 1881 (Act No. 26 of 1881) and includes also a hundi, and any other document entitling or purporting to entitle any person,

whether named therein or not to payment by any other person of, or to draw upon any other person for, any sum of money; (iv) "bill of exchange payable on demand" includes,-- (a) an order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen, (b) an order for the payment of any sum of money weekly, monthly or at any other stated period, and (c) a letter of credit, that is to say, any instrument, by which one person authorises another to give credit to the person in whose favour it is drawn; (v) "bill of lading" includes a "through bill of lading", but does not include a mates receipt; (vi) "bond" includes, - (a) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be; (b) any instrument attested and not payable to order or bearer, whereby a person obliges himself to pay money to another; and (c) any instrument attested, whereby a person obliges himself to deliver grain or other agricultural produce to another; Explanation-- For the purpose of this clause "attested" means attested by one or more witnesses each of whom has seen the executant sign or affix his mark to the instrument or has seen some other person sign the instrument in the presence and by the direction of the executant, or has received from the executant a personal acknowledgment of such signature or mark or of the signature of such other person, and in which each of whom has signed the instrument in the presence of the executant; but it shall not be necessary that more than one of such witnesses shall have been present at the same time, and no particular form of attestation shall be necessary. (vii) "chargeable" means, as applied to an instrument, executed or first executed after the commencement of this Act, chargeable under this Act, and, as applied to any other instrument, chargeable under the law in force in India when such instrument was executed or; where several persons executed the instrument at different times, first executed; (viii) "cheque" means a bill of exchange, drawn on a specified banker, and not expressed to be payable otherwise than on demand; 2 (viii-A) "Chief Controlling Revenue Authority" means Rajasthan Tax Board Constituted under section 90 of the Rajasthan Sales Tax Act 1994 (Act No. 22 of 1995);" (ix) "clearance list" means a list of transactions relating to contract; required to be

submitted to the clearing house of an association in accordance with the rules or bye-laws of the association : Provided that no instrument shall, for the purposes of this Act, be deemed to be a clearance list unless it contains the following declaration signed by the person dealing in such transaction or on his behalf by a properly constituted attorney, namely-- "I/We hereby solemnly declare that the above list contains a complete and true statement of my/our transactions including crossed out transactions and transactions required to be submitted to the clearing house in accordance with the rules/bye-laws of the association. I/We further declare that no transaction for which an exemption is claimed under Article 5 or Article 36 in Schedule to the Rajasthan Stamp Act, 1998, as the case may be, is omitted." Explanation--Transaction for the purpose of this clause shall include both sale and purchase. (x) "Collector" includes any officer whom the State Government may, by notification in the Official Gazette, appoint in this behalf; (xi) "conveyance" includes,-- (i) a conveyance on sale, (ii) every instrument, (iii) every decree or final order of any civil court, (iv) every order made by the High Court under section 394 of the Companies Act, 1956 (1 of 1956) in respect of amalgamation of the companies, (v) sale of air rights, (vi) sale/consent related to below surface rights, by which property, whether movable or immovable, or any estate or interest in any property is transferred to, or vested in, any other person, inter vivos, and which is not otherwise specifically provided for by the Schedule; (xii) "duly stamped" as applied to an instrument, means that the instrument bears an adhesive or impressed stamp of not less than the proper Amount and that such stamp has been affixed or used in accordance with law for the time being in force in the state; (xiii) "executed" and "execution" used with reference to instruments, mean "signed" and "signature"; 3"Explanation--The terms "signed" and "signature" also include attribution of electronic record as per section 11 of the Information Technology Act, 2000." (xiv) "Government security" means a Government security as defined in the Public Debt Act, 1944 (Act. No. 18 of 1944); (xv) "immovable property" includes land, benefits to arise out of land and things attached to the earth, or permanently fastened to any thing attached to the earth, but shall not include standing timber, growing crops or grass; (xvi) "impressed stamp" includes,-- (a) labels affixed and impressed by the proper officer, and (b) stamps embossed or engraved on stamped paper; (xviii) "Inspector General of Stamps" means the Inspector General, Registration &

Stamps appointed by the State Government; (xix) "instrument" includes every document by which any right or , liability is, or purports to be, created, transferred, limited, extended, extinguished, or recorded; 4"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". (xx) "instrument of partition" means any instrument whereby co-owners of any property divide, or agree to divide such property in severalty, and includes,- (i) a final order for effecting a partition passed by any revenue authority or any civil court, (ii) an award by an arbitrator directing a partition, and (iii) when any partition is effected without executing any such instrument, any instrument or instruments signed by the co-owners and recording, whether by way of declaration of such partition or otherwise, the terms of such partition amongst the co-owners; both, and includes also; (a) a patta, (b) a kabuliyat, or other undertaking in writing, not being a counterpart of a "lease", to cultivate, occupy, or pay or deliver rent for, immovable property, (c) any instrument, by which tolls of any description are let, (d) any writing on an application for a lease intended to signify that the application is granted, (e) any agreement to lease, (f) a declaratory decree or final order of any Civil Court in respect of lease: Provided that, where subsequently an instrument of lease is executed in pursuance of such decree or order, the stamp duty if any, already paid and recovered on such decree or order shall be adjusted towards the total duty leviable on such instrument; (xxiii) "market value" in relation to any property, which is the subject matter of an instrument, means the price which such property would have fetched if sold in open market on the date of execution of such instrument, or the consideration stated in the instrument, which ever is higher; (xxiv) "mortgage deed" includes every instrument, whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of any engagement, one person transfers, or creates, to, or in favour of, another, a right over or in respect of specified property; (xxv) "movable property" includes standing timber, growing crops and grass, fruit upon and Juice in trees, and property of every other description, except immovable property; (xxvi) "paper" includes vellum parchment or any other material on which an instrument may be written; (xxvii) "policy of insurance" includes,-- (a) any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown

or contingent event, (b) a life policy and any policy insuring any person against accident or sickness, and any other personal insurance; (xxviii) "policy of group insurance" means any instrument covering, not less than fifty or such smaller number as the Central Government may approve, either generally or with reference to any particular case, by which an insurer, in consideration of a premium paid by an employer or by an employer and his employees jointly, engages to cover with or without medical examination and for the sole benefit of persons other than the employer, the lives of all the employees or of any class of them, determined by conditions pertaining to the employment, for amounts of insurance based upon a plan which precludes individual selection; (xxix) "policy of sea-insurance" or "sea-policy",-- (a) means any insurance made upon any ship or vessel (whether for marine or inland navigation), or upon the machinery, tackle or furniture of any ship or vessel, or upon any goods, merchandise or property of any description whatever on board of any ship or vessel, or upon the freight of, or any other interest which may be lawfully insured in, or relating to, any ship or vessel, and (b) includes any insurance of goods, merchandise or property for any transit which includes, not only a sea risk within the meaning of clause (a), but also any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance, Explanation--Where any person in consideration of any sum of money paid or to be paid for additional freight or otherwise, agrees to take upon himself any risk attending goods, merchandise or property of any description whatever while on board of any ship or vessel, or engages to indemnify the owner of any such goods, merchandise or property from any risk, loss or damage, such agreement or engagement shall be deemed to be a contract for sea-insurance; (xxx) "power of Attorney" includes any instrument, (not chargeable with a fee under the law relating to court fees for the time being in force) empowering a specified person to act for and in the name of the person executing it and includes an instrument by which a person, not being a person who is legal practitioner, is authorized to appear on behalf of any party in any proceeding before any Court, Tribunal or Authority; (xxxi) "promissory note" means a promissory note as defined by the Negotiable Instruments Act, 1881 (Act No. 26 of 1881); it also includes a note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or



happen; (xxxii) "public officer" means a public officer as defined in clause (17) of section 2 of the Code of Civil Procedure, 1908 (Act No. 5 of 1908); (xxxiii) "receipt" includes any note, memorandum or writing,-- (a) whereby any money, or any bill of exchange, cheque or promissory note is acknowledged to have been received, or (b) whereby any other movable property is acknowledged to have been received in satisfaction of a debt, or (c) whereby any debt or demand, or any part of a debt or demand, is acknowledged to have been satisfied or discharged, or (d) which signifies or imports any such acknowledgment, and whether the same is or is not signed with the name of any person, (xxxiv) "settlement" means any non-testamentary disposition, in writing, of movable or immoveable property made,-- (a) in consideration of marriage, (b) for the purpose of distributing property of the settler among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him, or (c) for any religious or charitable purpose, and includes an agreement in writing to make such a disposition and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise, the terms of any such disposition; (xxxv) "soldier" includes any person below the rank of non-commissioned officer who is enrolled under the Army Act, 1950 (Act No. 46 of 1950); and 5(xxxvi) "Stamp" means any mark, seal or endorsement by any agency or person duly authorized by the Inspector General of Stamps, and includes an adhesive or impressed stamp, for the purposes of duty chargeable under this Act." 6"(xxxvi) stock exchange means any body of individuals, whether incorporated or not, constituted for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities". 1. Inserted by the Raj Finance Act 2006 w.e.f. 8.3.2006 2. Inserted by the Finance Act 2005 w.e.f. 24.3.2005 3. Inserted by the Raj Finance Act 2006 w.e.f. 8.3.2006 4. Inserted by Raj Finance Act 2006 w.e.f. 8.3.2006 5. Inserted by the Raj Finance Act 2006 w.e.f. 24.3.2005 6.. Inserted by the Raj Finance Act 2006 8.3.2006

## CHAPTER 2

### Stamp Duties

### **3. Instrument chargeable with duty :-**

Subject to the provisions of this Act and the exemptions contained in the Schedule, the following instruments shall be chargeable with duty of the amount indicated in the Schedule as the proper duty

therefor respectively, that is to say,-- (a) every instrument mentioned in that Schedule, which, not having been previously executed by any person, is executed in the State on or after the date of commencement of this Act; (b) every instrument mentioned in that Schedule, which, not having been previously executed by any person, is executed out of the State on or after the said date, relates to any property situate, or to any matter or thing done or to be done in the State and is received in the State : Provided that no duty shall be chargeable in respect of,-- (i) any instrument executed by or on behalf of, or in favour of, the Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument; (ii) any instrument for the sale, transfer or other disposition, either absolutely or by way of mortgage or otherwise, of any ship or vessel, or any part, interest, share or property of or in any ship or vessel registered under the Merchant Shipping Act, 1958 (Act No. 44 of 1958), as amended by subsequent Acts.

#### **4. Payment of stamp duty in cash :-**

(1) Where the State Government or the Collector under instructions of the State Government by order published in the Official Gazette declare that adhesive or impressed stamps of any denomination are not in stock for sale in sufficient quantity; then notwithstanding anything contained in this Act or the rules made there under and during the period the said order remains in force,-- (i) any instrument chargeable with the stamp duty under this Act may be executed on an unstamped paper; (ii) the stamp duty chargeable on such instrument under this Act may be paid to or collected by any Government treasury in cash and a receipt or challan therefor shall be duly given by the officer receiving (iii) the officer in-charge of the Government treasury shall, as soon as may be after the stamp duty chargeable on any such instrument under this Act has been received in cash, make on the instrument for which the stamp duty has been paid in cash, the following endorsement, after due verification that the stamp duty had been paid in cash for such instrument, and after cancelling such receipt or challan so that it can not be issued again, namely-- Stamp duty of Rs.....paid in cash, vide receipt/challan No.....dated..... (iv) the instrument endorsed under clause (iii) shall be deemed to be duly stamped under this Act and may be used or acted upon as such to all intents and for all purposes. Explanation.--For the purposes of sub-section

(1) "Government Treasury" includes a Government Sub-Treasury and any other place as the State Government may, by notification in the Official Gazette, appoint in this behalf. (2) An order made under sub-section (1) shall remain in force for such time as may be specified therein : Provided that the State Government or the Collector under the instructions of the State Government may, by notification in the Official Gazette, from time to time, extend the period of such order for such further time as may be considered necessary for making stock of adhesive or impressed stamps available for sale. (3) The State Government may, by order in the Official Gazette, direct that the power exercisable by it or by the Collector or by the officer-in-charge of a Government Treasury under this section may be exercised by such other officer as may be specified in the order. (4) Nothing contained in this section shall apply to the payment of stamp duty chargeable on the instruments specified in entry 91 of list I of the Seventh Schedule to the Constitution of India. (5) An order under this section may be made for the whole or any part of the State. (6) Nothing contained in this section shall, during the period an order under this section remains in force, render invalid any stamp which may be used in accordance with the other provisions of this Act.

**5. Several instruments used in single transaction of sale, mortgage or settlement :-**

(1) Where, in case of any of sale, mortgage or settlement, several instruments are employed for completing the transaction, only the principal instrument shall be chargeable with the duty prescribed for it in the Schedule and each of the other instruments shall be exempt from duty. (2) The parties may determine for themselves which of the instruments so employed shall, for the purposes of sub-section (1), be deemed to be the principal instrument: Provided that the duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect any of the said instruments employed.

**6. Instrument relating to several distinct matters :-**

Any instrument comprising or relating to several distinct matters, shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters would be chargeable under this Act.

**7. Instruments coming within several descriptions in the Schedule :-**

Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the descriptions in the Schedule, shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties.

**8. Payment of duty on copies, counterparts or duplicates when that duty has not been paid on the principal or original document :-**

(1) Notwithstanding anything contained in section 5 or section 7 or in any other law for the time being in force, the duty chargeable on any of the several instruments employed for completing a transaction of sale, mortgage or settlement other than a principal instrument or on a counterpart, duplicate or copy of any instrument shall, if the principal or original instrument would, when received in the State of Rajasthan have been chargeable under this Act, with a higher rate of duty be the duty with which the principal or original instrument would have been chargeable under section 20 unless it is proved that the duty chargeable under this Act has been paid--  
(a) on the principal or original instrument, as the case may be, or  
(b) in accordance with the provisions of this section. (2) Notwithstanding anything contained in section 39 or in any other law for the time being in force, no instrument, counterpart, duplicate or copy chargeable with duty under this section shall be received in evidence as properly stamped unless the duty chargeable under this section has been paid thereon : Provided that a court before which any instrument, counterpart, duplicate or copy is produced, shall permit the duty chargeable under this section to be paid thereon and may then receive it in evidence.

**9. Power to reduce, remit or compound duties :-**

(1) The Government, if satisfied that it is necessary to do so in the public interest, may by rule or order published in Official Gazette, reduce or remit, whether prospectively or retrospectively, in the whole or any part of the territories under its administration, the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favour of any particular class of persons, or by or in favour of any member of such class are chargeable. (2) The Inspector General of Stamps may by order provide for the composition or consolidation of duties in the case of receipt, policy of Insurance and issues by any incorporated company or other body corporate or of transfers where there is a

single transferee, whether incorporate or not, of debentures, bonds or other marketable securities. Explanation--In sub-section (1) of section 9, the expression "the Government" means,-- (a) in relation to stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts chargeable to stamp duty under the Indian Stamp Act, 1899 (Act No. 2 of 1899) the Central Government. (b) save as aforesaid, the State Government.

1"9.A Power to reduce or remit Penalty or Interest - The State Government, if Satisfied that it is necessary to do so in the public interest, may by notification published in the official Gazette, reduce or remit, the penalty or interest or both imposed or chargeable under this Act." 1. Interest by the Raj. Ordinance No. 5 of 2004 w.e.f. 27.5.2004

### **10. Duties how to be paid :-**

(1) Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and such payment shall be indicated on such instruments by means of stamps,-- (a) according to the provisions herein contained, or (b) When no such provision is applicable thereto, as the State Government may, by rule, direct. (2) The rules made under sub-section (1) may, among other matters, regulate,-- (a) in the case of each kind of instrument the description of stamps which may be used; (b) in the case of instruments stamped with impressed stamps, the number of stamps which may be used; and (c) in the case of bills of exchange or promissory notes, the size of the paper on which they are written. (3) The Inspector General of Stamps may, subject to such conditions as he may deem fit to impose, authorize use of franking machine or any other machine specified by the State Government, for making impressions on instruments chargeable with duties to indicate payment of duties payable on such instruments. (4) (i) Where the Inspector General of Stamps or the Superintendent of Stamps when authorized by the Inspector General of Stamps in this behalf, is satisfied that having regard to the extent of instruments executed and the duty chargeable thereon, it is necessary in public interest to authorize any person, body or organization to such use of franking machine or any other machine, he may, by order in writing authorize such person, body or organization; and (ii) Every such authorization shall be subject to such conditions, if any, as the Inspector General of Stamps may, by any general or special order, specify in this behalf. (5) The

procedure to regulate the use of franking machine or any other machine as so authorized shall be such as the Inspector General of Stamps may, by order determine. (6) An impression made under sub-sections (3) (4) and (5), on any instrument, shall have the same effect as if duty of an amount equal to the amount indicated in the impression has been paid, in respect of such instrument by means of stamps, under sub-section (1).

### **11. Use of adhesive stamps :-**

The following instruments may be stamped with adhesive stamps, namely,-- (a) instruments chargeable with a duty not exceeding twenty paise except parts of bills of exchange payable otherwise than on demand and drawn in sets; (b) bills of exchange drawn or made out of India and promissory notes so drawn or made; (c) entry as an advocate on the roll of a High Court, (d) notarial acts; and (e) transfers by endorsement of shares in any incorporated company or other body corporate.

### **12. Cancellation of adhesive stamps :-**

(1) (a) Whoever affixes any adhesive stamp to any instrument chargeable with duty which has been executed by any person shall, when affixing such stamp, cancel the same so that it cannot be used again; (b) Whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamps have been already cancelled in the manner aforesaid, cancel the same so that it cannot be used again. (2) Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again, shall, so far as such stamp is concerned, be deemed to be unstamped. (3) The person required by sub-section (1) to cancel an adhesive stamp may cancel it by writing on or across the stamp his name or initials or the name or initials of his firm with the true date of his so writing, or in any other effectual manner.

### **13. Instruments stamped with impressed stamps how to be written :-**

Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument. Explanation 1--Where two or more sheets of paper stamped with impressed stamps are used to make up the amount of duty chargeable in respect of any instrument, either a portion of such instrument shall be written on each sheet so used,

or the sheet on which no such portion is written shall be signed by the executant or one of the executants, with an endorsement indicating that the sheet is attached to another sheet on which the instrument is written. Explanation 2--Where a single sheet of paper, not being paper bearing an impressed hundi-stamp, is insufficient to admit the entire instrument being written on the side of the paper which bears the stamp so much plain paper may be sub-joint thereto as may be necessary for completing the writing of such instrument, provided that in every such case, a substantial part of the instrument is written on the sheet which bears the stamp before any part is written on the plain papers sub-joined.

**14. Only one instrument to be on same stamp :-**

No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written: Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

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

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

**16. Denoting duty :-**

Where duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last mentioned duty shall, if application is made in writing to the Collector for the purpose, and on production of both the instruments, be denoted upon such first mentioned instrument, by endorsement under the hand of the Collector or in such other manner, if any, as the State Government may by the rule prescribe.

**17. Instruments executed in the State :-**

All instruments chargeable with duty and executed by any person in the State shall be stamped before or at the time of execution or immediately thereafter on the next working day following the day of execution.

**18. Instruments other than bills and notes executed out of State :-**

(1) Every instrument chargeable with duty executed out of the State and not being a bill of exchange, or promissory note, may be stamped within three months after it has been first received in the State. (2) Where any such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, who shall stamp the same, in such manner as the State Government may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

**19. Bills and notes drawn out of India :-**

The first holder in the State of any bill of exchange, payable otherwise than on demand or promissory note drawn or made out of India shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in the State, affix thereto the proper stamp and cancel the same : Provided that -- (a) if, at the time any such bill of exchange or note comes into the hands of any holder thereof in the State, the proper adhesive stamp is affixed thereto and cancelled in the manner prescribed under section 12 and such holder has no reasons to believe that such stamp was affixed or cancelled otherwise than by the person and at the time required by this Act, such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled; (b) nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

**20. Payment of duty on certain instrument liable to increased duty in the State of Rajasthan :-**

When any instrument has become chargeable in any part of India other than the State of Rajasthan with duty under the Indian Stamp Act, 1899 (Act No. 2 of 1899) or under any other law for the time being in force in such part and thereafter becomes chargeable with a higher rate of duty in the State of Rajasthan under this Act,- (i) the amount of duty chargeable on such instrument shall be the amount chargeable on it under this Act less the amount of duty, if any, already paid on it in India; and (ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamp necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the



same time and by the same person as though such instrument were an instrument received in this State for the first time, when it became chargeable with the higher duty.

**21. Payment of difference of duty on copies of instruments registered out of the State :-**

(1) Where any instrument is registered in any part of India other than the State of Rajasthan and such instrument relates, wholly or partly to any property situate in the State of Rajasthan, the copy of such instrument shall, when received in the State of Rajasthan under the Registration Act, 1908 (Act No. 16 of 1908), be liable to be charged with the difference of duty as on the original instrument. (2) The difference of duty shall be calculated having regard to, the extent of property situated in the State of Rajasthan and the proportionate consideration or market value of such extent of property. (3) The party liable to pay duty on the original instrument shall upon receipt of notice from the registering officer, pay the difference of duty within the time allowed by such registering officer. (4) Where deficiency in duty paid is noticed from the copy of any instrument, the Collector may suo moto or on a reference from any court or any registering officer, require the production of the original instrument before him within the period specified by him for the purpose of satisfying himself as to the adequacy of the duty paid thereon, and the instrument so produced before the Collector, shall be deemed to have produced or come before him in the performance of his functions and the provisions of sections 35 and 51 shall, mutatis mutandis apply. (5) In case the original instrument is not produced within the period specified by the Collector, he may require the payment of deficit duty, if any, together with penalty under section 44 on the copy of the instrument, within such time as may be prescribed.

**22. Conversion of amount expressed in foreign currencies :-**

(1) Where an instrument is chargeable with ad valorem duty in respect of any money expressed in any currency other than that of India, such duty shall be calculated on the value of such money in the currency of India according to the current rate of exchange on the day of the date of the instrument. (2) The rate of exchange for conversion of British or any foreign currency into the currency of India, as may be prescribed by the Central Government, under sub-section (2) of section 20 of the Indian Stamp Act, 1899 (Act No. 2 of 1899), for the purposes of calculating stamp duty, shall be deemed to be the current rate of exchange for the purposes of sub-

section (1).

**23. Stock and marketable securities how to be valued :-**

Where an instrument is chargeable with ad valorem duty in respect of any stock or of any marketable or other security, such duty shall be calculated on the value of such stock or security according to the average price or the value thereof on the day of the date of the instrument.

**24. Effect of statement of rate of exchange or average price :-**

Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it shall, so far as regards the subject matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

**25. Instruments reserving interest :-**

Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

**26. Certain instruments connected with mortgages of marketable securities to be chargeable as agreements :-**

(1) Where an instrument (not being promissory note or bill of exchange),- (a) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt, or (b) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security, it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under Article 5 (c) of the Schedule. (2) A release or discharge of any such instrument shall only be chargeable with the like duty.

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

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

where of the transfer is chargeable with ad valorem duty: Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article 17 of the Schedule. Explanation--In the case of a sale of property subject to a mortgage or other encumbrance, any unpaid mortgage money or money charged together with the interest, if any, due on the same, shall be deemed to be part of the consideration for the sale: Provided that, where property subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage.

**28. Valuation in case of annuity, etc. :-**

Where an instrument is executed to secure the payment of an annuity or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument or the consideration for such conveyance, as the case may be, shall, for the purposes of this Act, be deemed to be, - (a) where the sum is payable for the definite period so that the total amount to be paid can be previously ascertained such total amount; (b) where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance, the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of twenty years calculated from the date on which the first payment becomes due; and (c) where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance the maximum amount which will or may be payable as aforesaid during the period of twelve years calculated from the date on which the first payment becomes due.

**29. Stamp duty where value of subject matter is indeterminate :-**

Where the amount or value of the subject matter of any instrument chargeable with ad valorem duty, cannot be, or, in the case of an instrument executed before the commencement of this Act, could not have been, ascertained at the date of its execution or first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient: Provided that, in the case of the lease of a mine in which royalty or a share of the

produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp duty,- (a) when the lease has been granted by or on behalf of the Government, at such amount or value as the Collector may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the Government under the lease, or (b) when the lease has been granted by any other person, at twenty thousand rupees a year; and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease: Provided further that, where proceedings have been taken in respect of an instrument under section 35 or 45, the amount certified by the Collector shall be deemed to be the stamp actually used at the date of execution.

**30. Facts affecting duty to be set forth in instruments :-**

(1) The consideration, if any, and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein. (2) In the case of instruments relating to immovable property chargeable with an ad valorem duty on the market value of the property, the instrument shall fully and truly set forth the land revenue in the case of revenue paying land, the annual rental or gross assets, if any, in the case of other immovable property, the local rates, municipal or other taxes, if any, to which such property may be subject, and any other particulars which may be prescribed by rules made under this Act.

**31. Direction as to duty in case of certain conveyances :-**

(1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, provided that a distinct consideration for each separate part is set forth in the conveyance relating thereto and such conveyance shall be chargeable with ad valorem duty in respect of such distinct consideration. (2) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the persons by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with ad valorem duty in respect of the distinct part of

the consideration therein specified. (3) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contract to sell the same to any other person and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with ad valorem duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser. (4) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the whole, or any part thereof, to any other person or persons and the property is in consequence conveyed by the original seller to different person in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with ad valorem duty in respect only of the consideration paid by such sub-purchaser, without regard to the amount or value of the original consideration; and the conveyance of the residue, if any, of such property to the original purchaser shall be chargeable with ad valorem duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchasers: Provided that the duty on such last-mentioned conveyance shall in no case be less than ten rupees. (5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with ad valorem duty in respect of the consideration paid by him and is duly stamped accordingly, any conveyance to be after-wards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller, or, where such duty would exceed fifty rupees, with a duty of fifty rupees. Explanation--For the purpose of this section, the consideration with respect to an instrument shall, where it relates to chargeability of ad valorem duty, be deemed to be the market value of the property.

### **32. Duties by whom payable :-**

In the absence of an agreement to the contrary the expense of providing the proper stamp shall be borne,- (a) in the case of any instrument described in any of the following Articles of the Schedule, namely : No. 2 (Administration bond) No. 6 (Agreement relating to deposit of title-deeds, pawn or pledge) No. 14 (Bond), No. 15 (Bottomry Bond), No. 25 (Customs Bond), No. 30 (Further charge-instrument of), No. 32 (Indemnity Bond), No. 37 (Mortgage deed), No. 48 (Release), No. 49 (Respondentia Bond), No. 50

(Security bond or Mortgage-deed), No. 51 (Settlement), - by the person drawing, making or executing such instrument; (b) in the case of a conveyance (including a re-conveyance of mortgaged property) -- by the grantee; in the case of a lease or agreement to lease-by the lessee or intended lessee; (c) in the case of a counterpart of a lease--by the lessor; (d) in the case of an instrument of exchange--by the parties in equal shares; (e) in the case of certificate of sale--by the purchaser of the property to which such certificate relates; (f) in the case of an instrument of partition--by the parties thereto in proportion to their respective shares in the whole property partitioned, or when the partition is made in execution of an order passed by a revenue authority or Civil Court or arbitrator, in such proportion as such authority, Court or arbitrator directs;1 "and" 2(ff) in the case of a works contract or a sub-contract--by the Contractor or sub-contractor, as the case may be; and" (g) in the case of any other instrument chargeable with stamp duty under this Act--by the person executing the instrument. 1. The expression "and" was deleted by Raj Ordinance No. 5 of 2004 w.e.f. 27.5.2004 2. Inserted by Raj Ordinance No. 5 of 2004 w.e.f. 27.5.2004

### **33. Obligation to give receipt in certain cases :-**

Any person receiving any money exceeding five thousand rupees in amount, or any bill of exchange, cheque or promissory note for an amount exceeding five thousand rupees, or receiving in satisfaction or part satisfaction of a debt, any movable property exceeding five thousand rupees in value, shall, on demand by the person paying or delivering such money, bill, cheque, note or property, give a duly stamped receipt for the same and any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire-insurance, shall within one month after receiving or taking credit for such premium or consideration, give duly stamped receipt for the same. Inserted by the Raj Finance Act 2005 w.e.f. 24.3.2005 for five hundred

## **CHAPTER 3**

Adjudication as to Stamps

### **34. Persons From whom duty on an instrument is due :-**

For the purposes of this Act, the person from whom duty on an instrument is due is - (a) the person liable under an agreement or under section 19, 32 and 33 or (b) where clause (a) does not apply, the executant of the instrument

### **35. Adjudication as to proper stamp :-**

(1) When any instrument, whether executed or not and whether previously stamped or not, is brought to the Collector, and the person bringing it applies to have the opinion of that officer as to the duty, if any, with which it is chargeable, and pays a fee of such amount (not exceeding fifty rupees and not less than ten rupees) as the Collector may in each case direct, the Collector shall determine the duty, if any, with which in his judgment, the instrument is chargeable. (2) For this purpose the Collector may require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly: Provided that, - (a) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an inquiry as to the duty with which the instrument to which it relates is chargeable; and (b) every person by whom any such evidence is furnished shall, on payment of the full duty with which the instrument to which it relates, is chargeable, be relieved from any penalty which he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid. (3) Where the Collector has reason to believe that the market value of the property has not been truly set forth in the instrument brought to him for determining the duty under sub-section (1) he may, after such inquiry as he may deem proper and after giving a reasonable opportunity of being heard to the person bringing the instrument, determine the market value of such property for the purpose of duty.

### **36. Certificate by Collector :-**

(1) When an instrument brought to the Collector under section 35 is, in his opinion, one of a description chargeable with duty, and (a) the Collector determines that it is already fully stamped, or (b) the duty determined by the Collector under section 35, or such a sum as, with the duty already paid in respect of the instrument, is equal to the duty so determined, has been paid, the Collector shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable, has been paid. (2) When such instrument is, in his opinion, not chargeable with duty, the

Collector shall certify in the manner aforesaid that such instrument is not so chargeable. (3) Any instrument upon which an endorsement has been made under this section, shall be deemed to be duly stamped or not chargeable with duty, as the case may be; and, if chargeable with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped: Provided that nothing in this section shall authorize the Collector to endorse any instrument chargeable with a duty not exceeding ten paise or any bill of exchange or promissory note, when brought to him, after the drawing or execution thereof, on paper not duly stamped. Provided further that, : (a) any instrument executed or first executed in the State and brought to the Collector within one month of its execution or first execution, as the case may be; or (b) any instrument executed or first executed out of State and brought to the Collector within three months after it has been first received in the State; shall be chargeable with duty as applicable at the time of its execution and where any instrument is presented to the Collector after the period specified above, such instrument shall be chargeable with duty as applicable at the time of its presentation and calculated on the basis of market value, wherever applicable, prevalent on the date of its presentation before the Collector and he may certify accordingly.

#### CHAPTER 4

Instrument not duly stamped

### **37. Examination and impounding of instruments :-**

(1) Every person having by law or consent of parties authority to receive evidence, and every person incharge of a public office, except an officer of a police, before whom any instrument, chargeable, in his opinion, with duty, is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same. (2) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in the State when such instrument was executed or first executed : Provided that,- (a) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter IX or Part D of Chapter X of the Code of Criminal Procedure, 1973 (Act No. 2



of 1974); (b) in the case of a Judge of a High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf. (3) For the purposes of this section in cases of doubt,- (a) the State Government may determine what offices shall be deemed to be public offices; and (b) the State Government may determine who shall be deemed to be persons incharge of public offices. (4) When a person incharge of a public office, during the course of inspection or otherwise, detects from an instrument or copy thereof or when it appears therefrom to the person referred to in sub-section (1) that the instrument is not duly stamped, such person shall forthwith make a reference to the Collector in that matter. (5) The Collector may, suo moto or on such reference, call for the original instrument for ascertaining whether it is duly stamped and the instrument so produced shall be deemed to have been produced or come before him in the performance of his functions and in case the original instrument is not produced within the period specified by the Collector, he may require the payment of the proper duty or the amount required to make up the same together with the penalty under section 44.

### **38. Special provisions as to unstamped receipts :-**

where any receipt chargeable with a duty not exceeding one rupee is tendered to or produced before any officer unstamped in the course of audit of any public account, such officer may in his discretion, instead of impounding the instrument, require a duly stamped receipt to be substituted therefore.

### **39. Instruments not duly stamped inadmissible in evidence, etc :-**

No instrument chargeable with duty under this Act shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped: Provided that, - (a) any such instrument shall, subject to all just exceptions, be admitted in evidence on payment of, - (i) the duty with which the same is chargeable, or in the case of an instrument insufficiently stamped, of the amount required to make up such duty, and (ii) a penalty of one hundred rupees or, ten times the amount of deficient portion thereof, whichever is higher. (b) where a contract or agreement of any kind is effected by correspondence consisting of two or more letters and any one of the letters bears

the proper stamp; the contract or agreement shall be deemed to be duly stamped. (c) nothing herein contained shall prevent the admission of any instrument as evidence in any proceeding in a criminal court, other than a proceedings under Chapter IX or Part D of Chapter X of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974). (d) nothing herein contained shall prevent the admission of any instrument in any court when such instrument has been executed by or on behalf of the Government or where it bears the certificate of the Collector as provided by section 36 or any other provision of this Act. (e) nothing herein contained shall prevent the admission of a copy of any instrument or of an oral account of the contents of any instrument, if the stamp duty or a deficient portion of the stamp duty and penalty as specified in clause (a) is paid. (f) nothing herein contained shall prevent the admission of any instrument in evidence in any court when stamp duty on such instrument has already been paid in advance in the form of a consolidated lump sum. (g) nothing herein contained shall prevent the admission of any instrument in any court when such document has been executed by or on behalf of the Government or where it bears the Certificate of the Collector as provided by section 36 or any other provision of this Act.

**40. Admission of instrument, where not to be questioned :-**

Where an instrument has been admitted in evidence, such admission shall not, except as provided in section 71, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

**41. Admission of improperly stamped instruments :-**

The State Government may make rules providing that, where an instrument bears a stamp of sufficient amount but or improper description, it may on payment of the duty with which the same is chargeable, be certified to be duly stamped, and any instrument so certified shall then be deemed to have been duly stamped as from the date of its execution.

**42. Instruments impounded how dealt with :-**

(1) When the person impounding an instrument under section 37 has by law or consent of parties authority to receive evidence and admits such instrument in evidence upon payment of a penalty as provided by section 39 or of duty as provided by section 41, he shall sent to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the

amount of duty and penalty levied in respect thereof, and shall sent such amount to the Collector, or to such person as he may appoint in this behalf. (2) In every other case, the person so impounding an instrument shall send it in original to the Collector : Provided that where the person who produced the instrument, or any party interested, is prepared to pay the cost of preparing a copy of the instrument, then:- (a) an authenticated copy of the instrument shall be got prepared by the person impounding the instrument; (b) only the authenticated copy shall be sent to the Collector; (c) the Collector shall take action on the authenticated copy as if it were the instrument in original; and (d) any certificate to be endorsed with reference to the instrument by the Collector under clause (a) of sub-section (1) of section 44 or under sub-section (1) of section 46 shall be endorsed on the authenticated copy, ordinarily within 30 days of receipt of the instrument by the Collector and when that copy is received back by the person impounding the instrument that person shall copy the certificate on the original instrument and also authenticate such copy of the certificate.

**43. Collectors power to refund penalty paid under sub-section (1) of section 42 :-**

(1) When a copy of an instrument is sent to the Collector under sub-section (1) of section 42, he may, if he thinks fit, refund any portion of the penalty in excess of one hundred rupees which has been paid in respect of such instrument. (2) when such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may refund the whole penalty so paid.

**44. Collectors power to stamp instrument impounded :-**

(1) When the Collector,- (a) impounds any instrument under section 37, or (b) receives any instrument sent to him under sub-section (2) of section 42, and such instrument is chargeable with a duty under this Act, he shall adopt the following procedure,- (i) if he is of opinion that such instrument is duly stamped or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable, as the case may be; (ii) if he is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of proper duty or the amount required to make up the same, together with a penalty of one hundred rupees; or, if he thinks fit an amount not exceeding ten times the amount of the proper duty or of the

deficient portion thereof, whether such amount exceeds or falls short of one hundred rupees: Provided that, when such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may, if he thinks, fit, remit the whole penalty prescribed by this section. (2) Every certificate under clause (a) of sub-section (1), shall for the purpose of this Act, be conclusive evidence of matters stated therein. (3) Where an instrument has been sent to the Collector under sub-section (2) of section 42, the Collector shall, when he has dealt with it as provided by this section, return it to the impounding officer.

**45. Instruments unduly stamped by accident :-**

If any instrument chargeable with duty and not duly stamped under this Act, is produced by any person of his own motion before the Collector within one year from the date of its execution or first execution, and such person brings to the notice of the Collector the amount of the proper duty, and offers to pay to the Collector the amount of the proper duty or the amount required to make up the same, and the Collector is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity he may, instead of proceeding under section 37 and 44 receive such amount and proceed further as hereinafter provided: Provided that where any instrument executed or first executed is brought to the Collector after the expiration of one month from the date of its execution or first execution, such instrument shall be chargeable with duty as applicable at the time of its presentation before the Collector under this section.

**46. Endorsement of instruments on which duty has been paid under sections 39, 44 or 45 :-**

(1) When the duty and penalty, if any, leviable in respect of any instrument have been paid under section 39, section 44 or section 45, the person admitting such instrument in evidence or the Collector, as the case may be, shall certify by endorsement thereon that the proper duty or, as the case may be, the proper duty and penalty (stating the amount of each) have been levied in respect thereof, and the name and residence of the person paying them. (2) Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted upon and authenticated as if it has been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer, impounding it, or to such a

person for whom he may direct: Provided that, - (a) no instrument which has been admitted in evidence upon payment of duty and a penalty under section 39, shall be so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary and has not cancelled such certificate; (b) nothing in this section shall affect the order XIII, rule 9, of the Code of Civil Procedure, 1908 (Act No. 5 of 1908).

**47. Prosecution for offence against stamp law :-**

The taking of proceedings or the payment of stamp duty, surcharge if any and penalty under this Chapter in respect of any instrument shall not bar the prosecution of any person who appears to have committed an offence against the stamp law in respect of such instrument: Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with an intention of evading payment of the proper duty.

**48. Persons paying duty or penalty may recover the same in certain cases :-**

(1) When any duty or penalty has been paid under section 39, section 41, section 44 or section 45, by any person in respect of any instrument, and by agreement or under the provisions of section 32, or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid. (2) For the purpose of such recovery any certificate granted in respect of such instrument under this Act shall be conclusive evidence of the matters therein certified. (3) Such amount may, if the Court thinks fit, be included in any order as to costs in any suit or proceeding to which such persons are parties and in which such instrument has been tendered in evidence and if the Court does not include the amount in such order, no further proceedings for the recovery of the amount shall be maintainable.

**49. Power to refund penalty or excess duty in certain cases :-**

(1) Where any penalty is paid under section 39 or section 44, the Chief Controlling Revenue Authority may, upon application in

writing made within one year from the date of the payment, refund such penalty wholly or in part. (2) Where, in the opinion of the Chief Controlling Revenue Authority, Stamp duty in excess of that which is legally chargeable has been charged and paid under section 39 or section 44, such authority may upon application in writing made within three months of the order charging the same, refund the excess.

**50. Non-liability for loss of instrument sent under section 42 :-**

(1) If any instrument sent to the Collector under sub-section (2) of section 42 is lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage. (2) When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same, may require a copy thereof to be made at the expense of such first mentioned person and authenticated by the person impounding such instrument.

**51. Instruments under valued, how to be valued :-**

(1) Notwithstanding anything contained in the Registration Act, 1908 (Act No. 16 of 1908) and the rules made thereunder as in force in Rajasthan where, in the case of any instrument relating to an immovable property chargeable with an ad valorem duty on the market value of the property as set forth in the instrument, the registering officer has, while registering the instrument, reasons to believe that the market value of the property has not been truly set forth in the instrument, he may either before or after registering the instrument, send it in original to the Collector for taking action under sub-section (3). (2) When through mistake or otherwise any instrument which is undervalued and not duly stamped is registered under the Registration Act, 1908, the registering officer may call for the original instrument from the party and, after giving the party liable to pay stamp duty an opportunity of being heard and recording the reasons in writing and furnishing a copy thereof to the party, impound it and on failure to produce such original instrument by the party, a true copy of such instrument taken out from the registration record shall, for the purposes of this section, be deemed to be the original of such instrument and send it to the Collector for taking action under sub-section (3). (3) On receipt of the instrument under sub-section (1) or (2) the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an enquiry in the prescribed manner, determine

the market Value and duty including the penalty not exceeding ten times the deficient stamp duty chargeable and surcharge, if any, payable thereon and if the amount of duty including penalty and surcharge, if any, so determined exceeds the amount of duty including penalty and surcharge, if already paid, the deficient amount shall be payable by the person liable to pay the duty including penalty and surcharge, if any. (4) Where it appears to a person having by law or consent of parties authority to receive evidence or a person incharge of a public office, during the course of inspection or otherwise, except an officer of a police, that an instrument is undervalued such person shall forthwith make a reference to the Collector in that matter. (5) The Collector may, suo motu or on a reference made under sub-section (4) call for and examine any instrument not referred to him under sub-section (1) or (2), from any person referred to in sub-section (4) or the executant or any other person for the purpose of satisfying himself as to correctness of the market value of the property, and if after such examination, he has reason to believe that the market value of such property has not been truly set forth in the instrument, he may determine in accordance with the procedure provided in sub-section (3) the market value and the amount of stamp duty together with a penalty not exceeding ten times the deficient stamp duty chargeable on it, which shall be payable by the person liable to pay the stamp duty, and penalty. (6) Where for any reason the original document called for by the Collector under sub-section (5) is not produced or cannot be produced, the Collector may, after recording the reasons for its not production, call for a certified copy of the entries of the document from the registering officer concerned and exercise the powers conferred on him under sub-section (5). (7) For the purpose of inquiries under this section, the Collector shall have power to summon and enforce the attendance of witnesses, including the parties to the instrument or any of them, and to compel the production of documents by the same means, and so far as may be in the same manner, as is provided in the case of civil court under Code of Civil Procedure, 1908 (Act 5 of 1908).

## **52. Rectification of mistakes :-**

With a view to rectifying any mistake apparent from the record, the Collector may amend any order made by him under this Act, within ninety days of the date of order either on his own motion or on the mistake being brought to his notice by person affected by the

order: Provided that if any such amendment is likely to affect any person prejudicially, it shall not be made without giving to such person reasonable opportunity of being heard.

**53. Determination of the correct nature of the document and the recovery of proper duty :-**

(1) Notwithstanding anything contained in the Registration Act, 1908 (Act 16 of 1908) and the rules made thereunder as in force in Rajasthan, where the registering officer has, while registering a document or instrument, reasons to believe that the nature of the document or instrument has not been correctly mentioned, he may, either before or after registering such document or instrument, send it, in original, to the Collector for taking action under sub-section (3). (2) When through mistake or otherwise any instrument which is misclassified and not duly stamped, is registered under the Registration Act, 1908 (Act No. 16 of 1908), the registering officer may call for the original instrument from the party and, after giving the party liable to stamp duty an opportunity of being heard and recording the reasons in writing and furnishing a copy thereof to the party, impound it and on failure to produce such original instrument by the party, a true copy of such instrument taken out from the registration record shall, for the purposes of this section, be deemed to be the original of such instrument and send it to the Collector for taking action under sub-section (3). (3) On receipt of document or instrument under sub-section (1) or (2), the Collector shall, after giving the parties a reasonable opportunity of being heard, determine the correct nature of the document or instrument and the duty including penalty not exceeding ten times the deficient stamp duty chargeable and surcharge, if any, payable thereon and may require the payment of the duty including penalty and surcharge, if any, so determined or the amount required to make up the same. (4) Where it appears to a person having by law or consent of parties authority to receive evidence or a person incharge of a public office, during the course of inspection or otherwise, except an officer of a police, that a document or an instrument has not been correctly mentioned while registering it, such person shall forth with make a reference to the Collector to determine the correct nature thereof. (5) The Collector may, suo motu or on a reference made under sub-section (4) or otherwise call for and examine any document or instrument not referred to him under sub-section (1) or (2), from any person referred to in sub-section (4) or executant or any other person, which has been



registered and returned to the executant or any other person for the purpose of satisfying himself as to the correctness with regard to the nature of the document or instrument and if he is satisfied, after giving the parties a reasonable opportunity of being heard, that the nature of document or instrument had not correctly been mentioned or determined, he may determine the correct nature of the document or instrument and the duty, if any, payable thereon together with a penalty not exceeding ten times the deficient stamp duty chargeable on it and require payment of duty including penalty, if any, so determined or the amount required to make up the same. (6) Where for any reason the original document or instrument called for by the Collector under sub-section (5) is not produced or cannot be produced, he may call for a certified copy of the document or instrument from the registering officer concerned and exercise the power conferred upon him in sub-section (5).

**54. Intimation of reference and payment of duty before reference :-**

( 1 ) Notwithstanding anything herein before contained, the registering officer shall, before making reference to the Collector under this Act, intimate to the parties concerned about the reference proposed to be made by him. (2) In case the person liable to pay the duty offers to pay the amount of duty chargeable on such instrument, the registering officer shall, on payment of such duty, certify it on the instrument by endorsement and shall not make the reference.

**55. Procedure in case of non-registration of documents required to be registered with the purpose of avoiding stamp duty :-**

(1) If it appears to any registering officer or any other person that a n instrument relating to a transaction compulsarily registerable under section 17 of the Registration Act, 1908 (Act No. 16 of 1908) has not been presented for registration with a view to avoiding payment of stamp duty or for any other reason, he shall immediately inform the Collector concerned for taking necessary action under the Stamp Law. (2) On receipt of information under sub-section (1) or suo motu, the, Collector shall issue a notice to the party/parties referred to in the information received, with a view to ensuring that the instrument is presented alongwith full facts and circumstances as required under section 30 of the Act to determine the liability for payment of stamp duty. (3) Upon service of notice where the instrument in question is presented before the

Collector, he shall proceed as provided by section 51 and/or 53 of the Act, as the case may be. (4) Where the party/parties served with notice do not present the instrument and/or appear before the Collector to "refute" the presumption of the information in question being correct, the Collector shall proceed to enquire into the correctness of the information in such manner as he deems fit. (5) After the aforesaid enquiry, where it appears to the Collector that the instrument in question has not been presented for registration with a view to avoiding stamp duty, it shall be deemed to be a violation of section 30 of the Act and if such non production is with a view to concealing the consideration, if any, and all other facts and circumstances affecting the chargeability of the said instrument with duty, and the determination of such duty, the Collector shall launch a prosecution against the person concerned under section 73 or 75 of the Act, as the case may be.

**56. Recovery of duties and penalties :-**

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

**57. Validity of certificate or endorsement in respect of instruments for which higher rate of duty is payable in Rajasthan :-**

Notwithstanding anything contained in the Indian Stamp Act, 1899 (Act No. 2 of 1899), no certificate or endorsement thereunder in respect of an instrument chargeable in the State of Rajasthan with a higher rate of duty under this Act, shall be received in evidence, or be, in any way, valid, in respect of the payment of duty on such instrument unless the duty chargeable at the rates, provided in this Act has been paid, on such instrument.

**CHAPTER 5**

Allowances for Stamps in Certain Cases

**58. Allowance for spoiled stamps :-**

Subject to such rules as may be made by the State Government as to the evidence to be required, or the inquiry to be made, the Collector may, on application made within the period prescribed in "section 59", and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the case hereinafter mentioned, namely: (a) the stamp on any paper inadvertently and

undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the purpose intended before any instrument written thereon is executed by any person; (b) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party thereto; (c) in the case of bill of exchange payable otherwise than on demand or promissory notes, (i) the stamp on any such bill of exchange signed by or on behalf of the drawer which has not been accepted or made use of in any manner whatever or delivered out of his hands for any purpose other than by way of tender for acceptance: Provided that the paper on which any such stamp is impressed does not bear any signature intended as for the acceptance of any bill of exchange to be afterwards written thereon. (ii) the stamp on any promissory note signed by or on behalf of the maker which has not been made use of in any manner whatever or delivered out of his hands. (iii) the stamp used or intended to be used for any such bill of exchange or promissory note signed by, or on behalf of the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange may have been presented for acceptance or accepted or endorsed, or, being a promissory note, may have been delivered to the payee: Provided that another completed and duly stamped bill of exchange or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill or note. (d) the stamp used for an instrument executed by any party thereto which,- (i) has been afterwards found by the parties to be absolutely void in law from the beginning; (ii) has been afterwards found by the court to be absolutely void in law from the beginning under section 31 of the Specific Relief Act, 1963; (iii) has been afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended; (iv) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot be completed so as to effect the intended transaction in the form proposed; (v) for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended; (vi) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured, or by the refusal of non-acceptance of any office thereby granted, totally fails of the intended purpose; (vii) becomes useless

in consequence of the transaction intended to be thereby effected being effected by some other instrument between the same parties and bearing a stamp of not less value; (viii) is deficient in value and the transaction intended to be thereby effected has been effected by some other instrument between the same parties and bearing a stamp of not less value; (ix) is inadvertently and undesignedly spoiled and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped: Provided that in the case of an executed instrument, other than one falling under sub-clause (ii) of clause (d), no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and that the instrument is given upto be cancelled: Explanation-- The certificate of the Collector under section 36 that the full duty with which an instrument is chargeable has been paid is an impressed stamp within the meaning of this section.

**59. Application for relief under section 58 when to be made :-**

The application for relief under section 58 shall be made within the following periods, that is to say, - (i) in the case mentioned in clause (d) (vi), within two months of the date of the instrument; (ii) in the case of a stamped paper on which no instrument has been executed by any of the parties thereto within six months after the stamp has been spoiled; (iii) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed: Provided that, - (a) when the spoiled instrument has been for sufficient reasons sent out of India, the application may be made within six months after it has been received back in India; (b) when, from unavoidable circumstances, any instrument for which another instrument has been substituted cannot be given upto be cancelled within the aforesaid period, the application may be made within six months after the date of execution of the substituted instrument.

**60. Allowance in case of printed forms no longer required by corporations :-**

The Chief Controlling Revenue Authority or the Collector if empowered by the Chief Controlling Revenue Authority in this behalf may, without limit of time, make allowance for stamped papers used for printed form of instruments by any banker or by

any incorporated company or other body corporate, if for any sufficient reason such forms have ceased to be required by the said banker, company or body corporate: Provided that such authority is satisfied that the duty in respect of such stamped papers has been duly paid.

**61. Allowance for misused stamps :-**

(a) when any person has inadvertently used for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of a greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty; or (b) When any stamp used for an instrument has been inadvertently rendered useless under section 15, owing to such instrument having been written in contravention of the provisions of section 13. The Collector may, on application made within six months after the date of the instrument or, if it not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

**62. Allowance for spoiled or misused stamps how to be made :-**

In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof, - (a) other stamps of the same description and value; or (b) if required and he thinks fit, stamps of any other description to be of the same amount in value; or (c) at his discretion, the same value in money deducting ten paise for each rupee or fraction of a rupee.

**63. Allowance for stamps not required for use :-**

When any person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp or stamps in money, deducting ten paise for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Collectors satisfaction,- (a) that such stamp or stamps were purchased by such person with a bona fide intention to use them; and (b) that he had paid the full price thereof; and (c) that they were so purchased within the period of six months next preceding

the date on which they were so delivered : Provided that, where the person is a licensed vendor of stamps, the Collector may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid.

**64. Allowance on renewal of certain debentures :-**

When any duly stamped debenture is renewed by the issue of a new debenture in the same terms, the Collector shall upon application made within one month, repay to the person issuing such debenture, the value of the stamp on the original or on the new debenture, whichever shall be less: Provided that the original debenture is produced before the Collector and cancelled by him in such manner as the State Government may direct. Explanation--A debenture shall be deemed to be renewed in the same terms within the meaning of this section notwithstanding the following changes,- (a) the issue of two or more debentures in place of one original debenture, the total amount secured being the same; (b) the issue of one debenture in place of two or more original debentures, the total amount secured being the same; (c) the substitution of the name of the holder at the time of renewal for the name of the original holder; and (d) the alteration of the rate of interest or the dates of payment thereof.

**CHAPTER 6**

**Reference and Revision**

**65. Revision by the Chief Controlling Revenue Authority :-**

(1) Any person aggrieved by an order made by the Collector under Chapter IV and V and under clause (a) of the first proviso to section 29 and under section 35 of the Act., may within 90 days from the date of order, apply to the Chief Controlling Revenue Authority for revision of such order: Provided that no revision application shall be entertained unless it is accompanied by a satisfactory proof of the payment of fifty percent of the recoverable amount. (2) The Chief Controlling Revenue Authority may suo moto or on information received from the registering officer or otherwise call for and examine the record of any case decided in proceeding held by the Collector for the purpose of satisfying himself as to the legality or propriety of the order passed and as to the regularity of the proceedings and pass such order with respect thereto as it may think fit: Provided that no such order shall be made except after giving the person affected a reasonable opportunity of being heard in the matter.

**66. General Superintendence and Control over Collectors :-**

(1) Subject to the provisions of this Act, the power to have general superintendence and control over Collectors shall vest in the Inspector General of Stamps. (2) The Inspector General of Stamps shall specify the territorial jurisdiction of a Collector for the purpose of this Act, where there are more than one officer functioning as Collector.

**67. Statement of case by the Chief Controlling Revenue Authority to High Court :-**

67. Statement of case by the Chief Controlling Revenue Authority to 1"High Court"-- The Chief Controlling Revenue Authority may state any Case referred to it under section 65, or otherwise coming to its notice and refer such case, with its own opinion thereon, to the 1"High Court": Provided that no reference shall be made under this section unless it is accompanied by a satisfactory proof of the payment of fifty percent of the recoverable amount.

**68. Power of High Court to call for further particulars as to case stated :-**

68. Power of 1"High Court" to call for further particulars as to case stated.- If the High Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the 2"Court" may refer the case back to the Chief Controlling Revenue Authority by which it was stated to make such additions thereto or alterations therein as the Court may direct in that behalf. 1. Sub. by the Raj. Ordinance No. 5 of 2004 for the words "Tax Tribunal". 2. Sub. by the Raj. Ordinance No. 5 of 2004 w.e.f. 27.5.2004 for the words "Tribunal".

**69. Procedure in disposing of case stated :-**

(1) The 1"High Court" upon the hearing of any such case shall decide the questions raised thereby, and shall deliver its judgement thereon containing the grounds on which such decision is founded. (2) The 1"High Court" shall send to the Chief Controlling Revenue Authority by which the case was stated, a copy of such Judgement under the seal of the 1"High Court" and signature of the Registrar; and the Chief Controlling Revenue Authority shall, on receiving such copy, shall pass such orders as are necessary for disposal of the case conformably to such judgement.

**70. Statement of case by other Courts to High Court :-**

70. Statement of case by other Courts to 1"High Court"-- (1) If any Court, feels doubt as to the amount of duty to be paid in respect of

any instrument under proviso (a) to section 39, the Judge may draw up a statement of the case and refer it, with his own opinion thereon, for the decision of the 1<sup>st</sup> "High Court", to which, if he were the Chief Controlling Revenue Authority, he would, under section 67, refer the same. (2) Such 1<sup>st</sup> "High Court" shall deal with the case as if it had been referred under section 67, and send a copy of its Judgement under the seal of the 1<sup>st</sup> "High Court" and the signature of the Registrar to the Chief Controlling Revenue Authority and another like copy to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgement. (3) Reference made under sub-section (1) when made by a Court subordinate to a District Court shall be made through the District Court and when made by any subordinate Revenue Court, shall be made through the Court immediately superior.

**71. Revision of certain decision of Court regarding the sufficiency of stamps :-**

(1) When any Court in the exercise of its civil or revenue jurisdiction or any Criminal Court in any proceeding, under the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section 39, the court to which appeals lie from, or references are made by, such first mentioned Court may, of its own motion, or on the application of the Collector, take such order into consideration. (2) If such Court, after such consideration is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 39 or without the payment of a higher duty and penalty than those paid, it may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is, to produce the same, and may impound the same when produced. (3) When any declaration has been recorded under sub-section (2), the Court recording the same shall send a copy thereof to the Collector, and, where the instrument to which it relates has been impounded or is otherwise in the possession of such court, shall also send him such instrument. (4) The Collector may thereupon, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section 46, or in section 47, prosecute any person for any offence against the Stamp Law which the Collector considers him to



have committed in respect of such instrument: Provided that,- (a) no such prosecution shall be instituted where the amount which, according to the determination of such Court, was payable in respect of the instrument under section 39, is paid to the Collector, unless he thinks that the offence was committed with an intention of evading payment of the proper duty; (b) except for the purposes of such prosecution) no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section 46.

## **72. Interest on failure to pay duty, fee or penalty :-**

Where any amount of duty, fee or penalty is recoverable from a person as a result of any order passed in any proceedings under this Act (including determination, appeal, revision, rectification or otherwise) and such duty, fee or penalty is not paid by such person, he shall be liable to pay interest at the rate of 18 percent compounded per annum on the amount of duty, fee or penalty from the date of order until the date of payment of such amount.

## **CHAPTER 7**

Criminal Offences and Procedure Criminal Offences and Procedure Criminal Offences and Procedure Criminal Offences and Procedure

## **73. Penalty for executing, etc., instrument not duly stamped :-**

(1) Any person,- (a) drawing, making, issuing, endorsing or transferring, or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying or receiving payment of, or in any manner negotiating, any bill of exchange payable otherwise than on demand or promissory note without the same being duly stamped; or (b) executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped; or (c) voting or attempting to vote under any proxy not duly stamped; shall for every such offence be punishable with fine which may extend to five thousand rupees : Provided that, when any penalty has been paid in respect of any instrument under section 39, section 44 or section 71, the amount of such penalty shall be allowed in reduction of the fine, if any, subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty. (2) If a share-warrant is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal

officer of the company shall be punishable with fine which may extend to five thousand rupees.

**74. Penalty for failure to cancel adhesive stamp :-**

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

**75. Penalty for omission to comply with provision of section 30 :-**

Any person who, with intent to defraud the Government,- (a) executes any instrument in which all the facts and circumstances required by section 30 to be set forth in such instrument are not fully and truly set forth; or (b) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances; or (c) does any other act calculated to deprive the Government of any duty or penalty under this Act; shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to twenty thousand rupees.

**76. Recovery of amount of deficit stamp duty :-**

(1) Where any person able to pay duty under this Act is convicted of an offence under section 75, in respect of any instrument (not being an instrument relatable to entry 91 of List - Union List of the Seventh Schedule of the Constitution), the magistrate shall on addition to the punishment which may be imposed for such offence, recover summarily and pay to the Collector, the amount of duty, if any, due under this Act from such person in respect of that instrument and the Collector shall hereupon certify by endorsement on instrument that proper duty has been levied in respect thereof: Provided that if the person referred to in this sub-section has already paid any amount towards the duty payable under this Act in respect of the instrument in relation to which person was convicted, the magistrate shall recover only the difference in the amount of duty. (2) The amount recoverable under sub-section (1) shall be recovered by the Magistrate, as if it were a fine imposed under the Code of Criminal Procedure, 1973 (Act No. 2 of 1974).

**77. Penalty for refusal to give receipt and for devices to evade duty on receipts :-**

Any person who,- (a) being required under section 33 to give a receipt, refuses or neglects to give the same; or (b) with intent to

defraud the government to any duty upon a payment of money or delivery of property exceeding five hundred rupees in amount or value, gives a receipt for an amount or value not exceeding five hundred rupees or separates or divides the money or property paid or delivered; shall be punishable with fine which may extend to one thousand rupees.

**78. Penalty for not making out policy or making one not duly stamped :-**

Any person who,-- (a) receives or takes credit for, any premium or consideration for any contract of insurance and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly stamped policy or such insurance; or (b) makes, executes or delivers out any policy which is not duly stamped or pays or allows in account, or agrees to pay or allows in account, any money upon or in respect of, any such policy. Shall be punishable with fine which may extend to two thousand rupees.

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

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

**80. Penalty for post-dating bills and for other devices to defraud the revenue :-**

Any person who, - (a) with intent to defraud the Government of duty, draws, makes or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made; or (b) knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays or receives payment, of such bill or note, or in any manner negotiates the same; or (c) with the like intent, practises or is concerned in any act, contrivance or device not specially provided for by this Act or any other law for the time being in force; shall be punishable with fine which may extend to five thousand rupees.

**82. Penalty for breach of rule relating to sale of stamps and**

**for unauthorized sale :-**

(a) Any person appointed to sell stamps who disobeys any rule made under section 86, and (b) any person not so appointed who sells or offers for sale any stamp (other than a ten paise or five paise adhesive stamp); shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

**83. Institution and conduct of prosecutions :-**

(1) No prosecution in respect of any offence punishable under this Act or any Act hereby repealed shall be instituted without the sanction of the Collector or such other officer as the State Government generally, or the Collector specially authorises in that behalf. (2) The State Government or any officer generally or specially authorised by it in this behalf, may stay any such prosecution or compound any such offence. (3) The amount of any such composition shall be recoverable in the manner provided by section 56.

**84. Place of trial :-**

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

**85. Books, etc., to be open to inspection :-**

(1) Every public officer<sup>1</sup> or the association or Stock Exchange referred to in section 2, clause (la) and xxxvi", having in his custody any registers, books, records, papers, documents or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times, permit any officer whose duty it is to see that proper duty has been paid or any other officer not below the rank of Sub Divisional Officer authorized in writing by the Collector to inspect for such purpose the registers, books, papers, documents and proceedings and to take such notes and extracts as he may deem necessary, without fee or charge. (2) Every such public officer shall also provide such registers, books, records, papers, documents or proceedings in original or authenticated copy to the Collector or any person authorized by the Collector on demand.

**86. Powers to make rules relating to sale of stamps :-**

The State Government, may make rules for regulating,- (a) the

supply and sale of stamps and stamped papers, (b) the persons by whom alone such sale is to be conducted, and (c) the duties and remuneration of such persons : Provided that such rules shall not restrict the sale often paise or five paise adhesive stamps.

**87. Power to make rules generally to carry out the purposes under the Act :-**

(1) The State Government may make rules by a notification in the official Gazette, to carry out generally the purposes of this Act, and may by such rules prescribe the fines, which shall in no case exceed five thousand rupees, to be incurred on breach thereof. (2) All rules made under this Act shall, be laid, as soon as may be, after they are so made, before the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which they are so laid or of the session immediately following, the State Legislature makes any modification in any of such rules, or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

**88. Saving as to court-fees :-**

Except for the provisions as to copies contained in section 8, nothing contained in this Act shall be deemed to affect the duties chargeable under any enactment for the time being in force relating to court fees.

**89. Saving as to certain Stamps :-**

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

**90. Application of the Indian Stamp Act, 1899 :-**

The Indian Stamp Act, 1899 (Act No. 2 of 1899), in so far as it relates to the subject matter relatable to entry 44 of List III of the Seventh Schedule to the Constitution in respect of documents specified in entry 91 of List I of the said Schedule, shall notwithstanding anything contained in this Act or any law for the time being in force extend, to the whole of the State of Rajasthan.

**91. Repeal and Savings :-**

(1) The Indian Stamp Act, 1899, as adapted in Rajasthan under the Rajasthan Stamp Law (Adaptation) Act, 1952 (No.VII of 1952), except in so far as it relates to documents specified in entry 91 of List I in the Seventh Schedule to the Constitution of India, is hereby repealed and the provisions of the Rajasthan General Clauses Act, 1955 (Rajasthan Act 8 of 1955), shall apply to such repeal: Provided that the repeal hereby shall not affect,- (1) any right, title, obligation or liability already acquired, accrued or incurred or anything done or suffered; (ii) any legal proceeding or remedy in respect of any such right, title, obligation or liability; under the provisions of the enactment hereby repealed and any such proceeding may be instituted, continued and disposed of and any such remedy may be enforced as if this Act had not been passed. (2) Any appointment, notification, notice, order, rule or form made or issued under the enactment hereby repealed shall be deemed to have been made or issued under the provisions of this Act, in so far as such appointment, notification, notice, order, rule or form is not inconsistent with the provisions of this Act and shall continue in force, unless and until it is superseded by an appointment, notification, notice, order, rule or form made or issued under this Act.

#### SCHEDULE 1

#### RATES OF STAMP DUTY APPLICABLE TO RAJASTHAN

	<b>Description of Instrument</b>	<b>Proper stamp duty</b>
	<b>(1)</b>	<b>(2)</b>
1.	Acknowledgement of debt exceeding twenty rupees in amount or value, written or signed by or on written or signed by or on behalf of a debtor in order to supply evidence of such debt in any book (other than a bankers pass-book) or on a separate piece of paper when such book or paper is left in the creditors possession: Provided that such acknowledgement does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property.	Two rupees
2.	Administration bond including a bond given under sections 291, 375 and 376 of the Indian Succession Act,	Ten rupees for every hundred rupees, or part thereof of the

	1925 (Act No. 39 of 1925), or under section 6 of the Government Saving Bank Act, 1873 (Act No. 5 of 1873)	value of the bond subject to a maximum of one hundred rupees.
3.	Adoption deed, that is to say, any instrument (other than a will) recording an adoption or conferring or purporting to confer any authority to adopt.	One hundred rupees.
4.	Affidavit including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing.	Ten rupees
	Exemptions : Affidavit or declaration in writing when made,-	
	(a) as a condition of enrolment in the Indian Air Force;	
	(b) for the immediate purpose of being filed or used in any court or before the officer or any court; or	
	(c) for the sole purpose of enabling any person to receive any pension or charitable allowance.	
5.	Agreement or memorandum of an agreement, -	

(See Section 3)