

ACT No. XXVI OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 22nd March 1867.)

An Act to amend the law relating to Stamp Duties.

Preamble.

WHEREAS it is expedient to amend the law relating to Stamp Duties; It is hereby enacted as follows:—

Interpretation clause.

1. In this Act—unless there be something repugnant in the subject or context—

“High Court.”

“High Court” means the highest Court of appeal in every part of British India to which this Act extends :

“Immoveable property.”

“Immoveable property” includes land and every benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth :

“Moveable property.”

“Moveable property” means property of every description except immoveable property.

2. The exception at the beginning of Section 30 of Act No. X of 1862

Exception in Section 30 of Act X of 1862 not to apply to High Court, North-Western Provinces, and Section 2 of Act No. XX of 1862 applied to such Court.

(to consolidate and amend the law relating to stamp-duties), shall not apply to the High Court of Judicature of the North-Western Provinces of the Presidency of Fort William in Bengal, and Section 2 of Act No. XX of 1862, as continued by Act No. XXXII of 1863, shall apply, *mutatis*

mutandis, to the same Court.

3. Section 2 of this Act shall be deemed to have had and to have effect as

Section 2 of this Act to have a retrospective effect.

if it were part of an Act which had actually passed and received the assent of the Governor General of India on the

thirteenth day of June 1866,

4. Sections

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4. Sections 133 and 150 of the Code of Civil Procedure, and the following words in Section 198 of the same Code:—"The application may be made either orally or by writing on unstamped paper,"—are hereby repealed.

Act VIII of 1859, Sections 133, 150 and part of Section 198, repealed.

5. In the said Act No. X of 1862, Schedule A shall be read as if at the end of Article 43 the following clause were added; (that is to say) :—

Addition to Article 43 in Act No. X of 1862, Schedule A.

If the letter or power of attorney be made for the sole purpose of appointing or nominating a proxy to vote at any one meeting of the proprietors or shareholders of or in any Joint Stock Company or other Company or Society whose stock or funds is or are divided into shares and transferable ... Rupees. Annas. 0 4

6. In the same Act, for Schedule B, the following shall be substituted :—

Schedule substituted for Schedule B to Act X of 1862.

SCHEDULE B.

Appeal—see Petition.
Application—see Petition.

1. Bond or other obligation, whether the money secured or to be ultimately recoverable thereupon shall be limited or unlimited, when given by the direction of any Court or revenue authority ... Rupees. Annas. 0 8

EXEMPTION.

Bail bonds in criminal cases, recognizances to prosecute or give evidence, and personal recognizances for appearance or otherwise.

2. Certificate granted under Act XXVII of 1860 (for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons), or under Regulation VIII of 1827 of the Bombay Code (to provide for the formal recognition of Heirs, Executors, and Administrators, and for the appointment of Administrators and Managers of property by the Courts), or under Act XL of 1858 (for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal), if the debt or other property in respect to which the certificate is granted is sworn not to exceed 500 rupees in amount or value ... 5 0

If the property is sworn to exceed 500 rupees but not to exceed 1,000 rupees ... 10 0

And for every additional 1,000 rupees or fraction of 1,000 rupees ... 5 0

The person to whom any such certificate is granted under the said Act XXVII of 1860, or his representative, shall, after the expiration of twelve months from the date of such certificate, and thereafter whenever the Court which granted the certificate shall require him so to do, file a statement of all moneys recovered or realized by him under such certificate, and if the moneys so recovered or realized shall exceed the amount of the debts or other property as sworn to by the person to whom the certificate is granted, the Court may cancel the same and order such person to take out a fresh certificate on the stamp prescribed by this Article for such excess. In default of filing such statement within the time allowed, the Court may cancel the certificate.

3. Copy of decree or order having the force of a decree—
When passed by the High Court ... 4 0
When passed by any Civil Court other than a High Court, or by any Revenue Court—
If the decree or order purports to determine a claim of which the subject-matter is 50 rupees or less than 50 rupees in amount or value ... 0 8
If such amount or value exceeds 50 rupees ... 1 0
4. Copy or translation of a judgment or order not being or having the force of a decree—
When passed by the High Court ... 1 0

When

When passed by any civil Court other than the High Court, or by any Revenue Court, or by the Board of Revenue, or by any Chief Commissioner or other chief revenue or executive authority, or by any Commissioner of Circuit, or any chief officer charged with the executive administration of a Division—

If the subject to which the judgment or order refers is 50 rupees or less than 50 rupees in amount or value	...	...	...	...	...	0	4
If such amount or value exceed 50 rupees	...	...	...	...	...	0	8
5. Copy of any revenue or judicial proceeding or order not provided for in Articles 3 and 4, or copy of any account, statement, report, or the like, taken out of any civil or criminal Court, or any Revenue Court or office, or any office of any Commissioner of Circuit, or any chief officer charged with the executive administration of a Division—per sheet	...	...	...	...	...	0	8

Rupees. Annas.

6. Copy of any Deed, Instrument, or Writing, stamped in accordance with Schedule A annexed to this Act, when left by any party to a suit on proceedings in place of the original withdrawn

The same stamp as the original, when such stamp does not exceed eight annas, otherwise a stamp of eight annas per sheet. Provided that the stamp-duty on the copy shall never exceed the stamp-duty on the original.

EXEMPTION.

Copy of any such Deed, Instrument, or Writing, when the original does not require a stamp under the said Schedule A.

7. Mukhtárnáma, Wakálatnáma, and other power, filed or presented for the conduct of any one case in any Court or before any revenue or executive authority—

When presented to the High Court, the Board of Revenue, the Chief Commissioner, or other chief revenue or executive authority	...	...	...	...	...	2	0
When presented to a Commissioner of Revenue or Circuit, or to any chief officer charged with the executive administration of a Division, or to a Commissioner of Customs, not being the chief revenue or executive authority	...	...	...	...	...	1	0
When presented to any Court, civil or criminal, other than the High Court, or to any Revenue Court, or to any Collector or Magistrate or other revenue or executive officer, not being an authority already provided for by this Article	...	...	...	...	...	0	8

Rupees. Annas.

EXEMPTIONS.

Mukhtárnámas executed by an officer or soldier of the Army.

No Advocate of any High Court shall be required to file or present a Mukhtárnáma or Wakálatnáma, or any other document empowering him to act.

8. Petition of appeal not being from an order rejecting a plaint, or from a decree or order having the force of a decree—

When presented to the High Court	...	...	...	...	...	2	0
When presented to any civil Court other than the High Court, or to any revenue Court other than the Board of Revenue	...	...	...	...	...	0	8

9. Petition of appeal when presented to the Board of Revenue or to the Chief Commissioner, or other chief revenue or executive authority

10. Any other petition, and any application—

When presented to the High Court	...	...	...	...	...	2	0
When presented to the Board of Revenue, or to the Chief Commissioner or other chief revenue or executive authority, or to a Commissioner of Revenue or Circuit, or to any chief officer charged with the executive administration of a Division	...	...	...	...	...	1	0

When presented to any criminal Court, when the petition or application contains a complaint of the offence of wrongful confinement or wrongful restraint, or of any offence other than an offence for

which

which Police officers may arrest without warrant, as specified in column 3 of the Schedule annexed to the Code of Criminal Procedure	1	0
When presented to any civil court, other than a principal civil Court of original jurisdiction, or to any Cantonment Joint Magistrate sitting as a Court of Civil Judicature under Act III of 1859 (for conferring Civil jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registers of Deeds), or to any Court of Small Causes constituted under Act XI of 1865 (to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature), or to a Collector or officer of revenue in relation to any suit or case in which the amount or value of the subject-matter is less than 50 rupees	0	1
When presented to the Collector of Customs at any Presidency town, to any Municipal Commissioners, or to any Magistrate or Justice of the Peace, under Act XIV of 1856, or any other Act for the time being in force for the conservancy and improvement of any Presidency town		
When presented to any civil, criminal or revenue Court, or any Board of Revenue, or any Commissioner of Revenue or Circuit, or any chief officer charged with the executive administration of a Division for a copy or for a translation of any judgment, decree or order or other document on record		
Petition or application not falling within any of the other provisions, or of the exemptions of this Schedule, presented to a civil, criminal or revenue Court, or to any Collector or other revenue authority or any Magistrate in his executive capacity	0	8

EXEMPTIONS.

A first application for the summons of a witness or other person to attend either to give evidence or to produce a document, or in respect of the production or filing of any exhibit.

Petition of appeal presented to a Magistrate against the chaukidari assessment.

Petition to a Collector or officer making a settlement, relating to matters connected with the assessment of lands, the ascertainment of rights, or to any other matter affecting the settlement of the Government revenue on land, if presented pending the formation of such settlement.

Petition to a Board or Commissioner of revenue relating to the same.

Any application for permission to cut timber in Government forests, or relating to such forests.

Petition, application, charge or information respecting any offence, when presented, made or laid before an officer of Police or before the heads of villages in the Presidency of Fort St. George or before village Police officers in the Presidency of Bombay.

Any such petition, application, charge, or information presented, made or laid before a criminal Court, when such Court shall think that it ought to be exempted from stamp-duty.

Petition from any prisoner, convict, or other person in duress, or under restraint of any Court or its officers.

11. PLAINT OR APPEAL, Petition of, in suits and appeals not otherwise provided for, instituted in any civil or revenue Court outside the local limits of the ordinary original civil jurisdiction of the Courts established by Royal Charter, for the recovery of any sum of money, or to obtain possession of any interest, matter or thing—

If the amount or value of the property claimed does not exceed	10 Rs.	1	0
If it exceeds 10 rupees and does not exceed	100 "		

1 rupee plus 8 annas per 5 rupees or fraction of 5 rupees of the difference between 10 rupees and the amount or value sued for.

Illustration.— Where the amount or value is rupees 32-8, the duty is rupees 3-8.

" 100 "	1,000 "		
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1 rupee per 10 rupees or fraction of 10 rupees.

Illustration.— Where the amount or value is rupees 485-8, the duty is rupees 49.

If

<p>If it exceeds 1,000 rupees and does not exceed 20,000 Rs.</p>	<p>100 rupees plus 5 rupees per 100 rupees or fraction of 100 rupees of the difference between 1,000 rupees and the amount or value sued for.</p> <p><i>Illustration.</i>— Where the amount or value is rupees 1,250-8, the duty is rupees 115.</p>
<p>„ 20,000 „ „ 100,000 „</p>	<p>1,050 rupees plus 1 rupee per 100 rupees or fraction of 100 rupees of the difference between 20,000 rupees and the amount or value sued for.</p> <p><i>Illustration.</i>— Where the amount or value is rupees 43,450-8, the duty is rupees 1,285.</p>
<p>„ 100,000 „</p>	<p>1,850 rupees plus 8 annas per 100 rupees or fraction of 100 rupees of the difference between 100,000 rupees and the amount or value sued for.</p> <p><i>Illustration.</i>— Where the amount or value is rupees 5,93,150-8, the duty is rupees 4,316.</p>

If the suit be instituted in a Military Court of Requests, or in the Court of a Cantonment Joint Magistrate under the said Act III of 1859, or in a Court of Small Causes established under Section 6 of Act XXII of 1864 (to make provision for the administration of Military Cantonments), and the amount or value claimed does not exceed 8 rupees

If it exceeds 8 rupees, and does not exceed 16 rupees

If it exceeds 16 rupees, and does not exceed 30 rupees

If it exceeds 30 rupees

Rupees. Annas.

0	4
0	8
1	0

{ The same stamp as for a suit in any other Court.

{ A stamp of one-fourth the value prescribed in the foregoing scale.

In suits for possession instituted under Section 15, Act XIV of 1859, and applications for immediate possession under Section 1, clause 2 of Act No. XVI of 1838, and Act No. V of 1864 passed by the Governor of Bombay in Council

NOTE.—(a). In suits for immoveable property whether paying or not paying revenue to Government, the amount of stamp-duty payable shall be computed according to the market-value of the property in suit. In suits for immoveable property paying revenue to Government, where the settlement is temporary, eight times the revenue so payable, and where the settlement is permanent, ten times the revenue so payable, and in suits for immoveable property not paying revenue to Government,

twenty

a 10

twenty times the annual net profits of such property, shall be taken to be the market-value thereof, unless and until the contrary shall be proved.

SPECIAL RULES FOR THE BOMBAY PRESIDENCY.

(1). In the case of lands held on a settlement for a period not exceeding thirty years and paying the full assessment to Government, a sum equal to eight times the survey assessment shall be taken to be the market-value.

(2). In the case of lands held on a permanent settlement or on a settlement for any period exceeding thirty years and paying the full assessment to Government, a sum equal to ten times the survey assessment shall be taken to be the market-value.

(3). When the whole or any part of the annual survey assessment is remitted, the valuation calculated by the preceding rules shall be increased by ten times the portion of assessment remitted.

(b). In all other descriptions of suits, the amount of stamp-duty payable shall be computed in the following manner:—

(1). In suits for moveable property (other than money), according to the market-value of the subject-matter of the suit at the date of filing the plaint, or where the subject-matter has no market-value, as, for instance, in the case of documents relating to title, or accounts, the amount at which the subject-matter shall be estimated in the petition of plaint or appeal.

(2). In suits (other than suits under Act No. XV of 1865, or Act No. XXI of 1866), in which it is not possible to estimate at a money-value the subject-matter of the suit

Rupees. Annas.
10 0

(3). In suits for money (including suits for damages and compensation), according to the amount claimed.

In order to ascertain the market-value or the annual net profits of any such property as is described in NOTE (a) and in NOTE (b), the Court may either of its own motion or on the application of any party to the suit issue a commission to any proper person, directing him to make such local or other investigation as may be necessary and to report thereon to the Court, and the decision of the Court as to the market-value or annual net profits shall be final. If in the result of any such investigation, the Court shall find that the market-value or net profits has or have been erroneously estimated for the purpose of computing the stamp-duty, the Court shall either (as the case may be) refund the excess paid as such duty, or require the plaintiff to pay so much additional stamp-duty as would have been payable had the said market-value or net profits been correctly estimated, and in such case the suit shall be stayed until the additional duty shall have been paid.

Section 180 of the Code of Civil Procedure shall be construed as if the words "the market-value of any property in suit or" were inserted after the word "ascertaining," and as if the words "or annual net profits" were inserted after the word "damages."

(c). In suits for mesne profits or for immoveable property and mesne profits, if the profits decreed are in excess of the profits claimed, the decree shall not be executed until the difference between the stamp-duty actually paid and the stamp-duty which would have been payable had the suit comprised the whole of the profits so decreed, shall have been paid to the proper officer. Such difference shall be calculated by the Court according to the rules abovementioned, and shall be costs in the suit.

(d). If an appeal or plaint, which shall have been rejected by the lower Court on any of the grounds mentioned in the Code of Civil Procedure, shall be ordered to be received, or if a suit shall be remanded in appeal, on any of the grounds mentioned in Section 351 of the same Code, for a second decision by the lower Court, the appellate Court shall grant to the appellant a certificate, authorizing him to receive back from the Collector the full amount of stamp-duty paid on the petition of appeal. Provided that, if, in the case of a remand in appeal, the order of remand shall not cover the whole of the subject-matter of the suit, the certificate so granted shall not authorize the appellant to receive back more than so much duty as would have been originally payable on the part or parts of such subject-matter in respect whereof the suit has been remanded.

(e). When any appeal shall be presented to a civil Court, not against the whole of a decision, but only against so much thereof as relates to a part or parts of the subject-matter of the suit, and, on the hearing of such appeal, the respondent shall take, under Section 348 of the Code of Civil Procedure, an objection to any part of the said decision other than the part appealed against, the Court shall not hear such objection until the respondent shall have paid the additional stamp-duty which would have been payable had the appeal comprised the part of the decision so objected to. Such additional stamp-duty shall be calculated by the Court according to the rules abovementioned, and shall be costs in the suit.

GENERAL RULE.—If the subject-matter of any plaint, written statement, petition, or copy of a decree or order cannot be conveniently comprised within one stamp-paper of the value prescribed by this Schedule, one or more additional pieces of paper may be used bearing a stamp of the value required for petitions. This rule does not apply to copies of judgments; and additional pieces of paper required for such copies need not be stamped.

7. When the first or only examination of a person who complains of the offence of wrongful confinement, or of wrongful restraint, or of any offence other than an offence for which police-officers may arrest without a warrant as specified in the third column of the Schedule annexed to the Code of Criminal Procedure, and who has not already presented a petition stamped as required by Article 10 of Section 6 of this Act, shall be reduced to writing under the provisions of the Code of Criminal Procedure, such examination shall be written upon stamp-paper of the value of one rupee to be supplied by the complainant, unless the Court shall think fit to write such examination upon plain paper.

Written examinations of complainants.

Certain Sections of this Act to be read with Act No. X of 1862.

8. Sections 1, 5, 6 and 7 of this Act shall be read with and taken as part of the said Act No. X of 1862: Provided that nothing contained in these Sections shall have a retrospective operation.

9. Nothing in this Act shall affect Act No. XVIII of 1865 (*to amend Act No. X of 1862*) or any order passed thereunder, and nothing in this Act shall affect the stamps or fees leviable under the Indian Succession Act, 1865, the Parsee Marriage and Divorce Act, 1865, the Native Converts' Marriage Dissolution Act, 1866, nor any other stamp or fee leviable on any application, bond, certificate, copy, petition, power or translation not hereinbefore expressly provided for.

Act not to affect Act XVIII of 1865.