

## CHAPTER II

### STAMP-DUTIES

#### *A. – Of the Liability of Instruments of Duty.*

Instruments  
chargeable  
with duty

3. Subject to the provisions of this Act and the exemptions contained in Schedule I, the following instruments shall be chargeable with duty of the amount indicated in that schedule as the proper duty therefore, respectively, that is to say—

- (a) every instrument mentioned in that schedule which, not having been previously executed by any person, is executed in Bangladesh on or after the first day of July, 1899;
- (b) every bill of exchange payable otherwise than on demand or promissory note drawn or made out of Bangladesh on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred, or otherwise negotiated, in Bangladesh; and
- (c) every instrument (other than a bill of exchange or promissory note) mentioned in that schedule, which, not having been previously executed by any person, is executed out of Bangladesh on or after that day relates to any property situate, or to any matter or thing done or to be done, in Bangladesh and is received in Bangladesh:

<sup>1</sup>[\* \* \*]

Provided also that no duty shall be chargeable in respect

of—

- (1) 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;
- (2) any instrument for the sale, transfer or other disposition, either absolutely or by way of mortgagee or otherwise, of any ship or vessel, or any part, interest, share or property

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<sup>1</sup> The first proviso of section 3 was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

of or in any ship or vessel registered under the <sup>1</sup>[Merchant Shipping Ordinance, 1983 (XXVI of 1983)].

**4.**<sup>2</sup>[(1) Where, in the case of any sale, mortgagee or settlement, several instruments are employed for completing the transaction, the Principal instrument only shall be chargeable with the duty prescribed in Schedule I for the conveyance, mortgagee or settlement, and each of the other instruments shall be chargeable with a duty of three Taka instead of the duty (if any) prescribed for it in that Schedule.]

Several instruments used in single transaction of sale, mortgagee or settlement

(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 of any of the said instruments employed.

**5.** 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.

Instruments relating to several distinct matters

**6.** Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the descriptions in Schedule I <sup>3</sup>[\*\*\*] shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties:

Instruments coming within several descriptions in Schedule I

Provided that nothing in this Act contained shall render chargeable with duty exceeding three Taka a counterpart or

<sup>1</sup> The words, comma, figures and brackets "Merchant Shipping Ordinance, 1983 (XXVI of 1983)" were substituted for the words, commas, figures "Merchant Shipping Act, 1894, or under Act XIX of 1838 or the Registration of Ships Act, 1841, as amended by subsequent Acts" by section 2 of the Stamp (Amendment) Ordinance, 1986 (Ordinance No. XIV of 1986),.

<sup>2</sup> Sub-section (1) was substituted, for sub-section (1) by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>3</sup> The words, letter and commas "or in Schedule IA, as the case may be," were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid<sup>1</sup>[\* \* \*].

6A. [Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).]

Policies of sea-insurance

7.(1) No contract for sea-insurance<sup>2</sup>[\* \* \*] shall be valid unless the same is expressed in a sea-policy.

(2) No sea-policy made for time shall be made for any time exceeding twelve months.

(3) No sea-policy shall be valid unless it specifies the particular risk or adventure, or the time, for which it is made, the names of the subscribers or underwriters, and the amount or amounts insured.

(4) Where any sea-insurance is made for or upon a voyage and also for time, or to extend to or cover any time beyond thirty days after the ship shall have arrived at her destination and been there moored at anchor, the policy shall be charged with duty as a policy for or upon a voyage, and also with duty as a policy for time.

Bonds, debentures or other securities issued on loans under Act IX of 1914

8.(1) Notwithstanding anything in this Act, any local authority raising a loan under the provisions of the Local Authorities Loans Act, 1914, or of any other law for the time being in force, by the issue of bonds, debentures or other securities, shall, in respect of such loan, be chargeable with a duty of one *per centum* on the total amount of the bonds, debentures or other securities issued by it, and such bonds, debentures or other securities need not be stamped, and shall not be chargeable with any further duty on renewal, consolidation, subdivision or otherwise.

<sup>1</sup> The words and figure "unless it falls within the provisions of section 6A" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>2</sup> The words, comma and figures "other than insurance as is referred to in section 506 of the Merchant Shipping Act, 1894" were omitted by section 2 of the Finance Act, 2000 (Act No. XV of 2000).

(2) The provisions of sub-section (1) exempting certain bonds, debentures or other securities from being stamped and from being chargeable with certain further duty shall apply to the bonds, debentures or other securities of all outstanding loans of the kind mentioned therein, and all such bonds, debentures or other securities shall be valid, whether the same are stamped or not:

Provided that nothing herein contained shall exempt the local authority which has issued such bonds, debentures or other securities from the duty chargeable in respect thereof prior to the twenty-sixth day of March, 1897, when such duty has not already been paid or remitted by order issued by the Government.

(3) In the case of wilful neglect to pay the duty required by this section, the local authority shall be liable to forfeit to the Government a sum equal to ten *per centum* upon the amount of duty payable, and a like penalty for every month after the first month during which the neglect continues.

9. The Government may, by rule or order publish in the official Gazette,—

- (a) 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 members of such class, are chargeable, and
- (b) provide for the composition or consolidation of duties in the case of issues by any incorporated company or other body corporate of debentures, bonds or other marketable securities.

Power to reduce, remit or compound duties

*B. – Of Stamps and the mode of using them.*

Duties how to be paid

**10.**(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 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;
- (c) in the case of bills of exchange or promissory notes written in any Oriental language— the size of the paper on which they are written.

Use of adhesive stamps

**11.** The following instruments may be stamped with adhesive stamps, namely:—

- (a) instruments chargeable with the duty of ten poisha or five poisha, except parts of bills of exchange payable otherwise than on demand and drawn in sets;
- (b) bills of exchange and promissory notes drawn or made out of Bangladesh;
- (c) entry as an <sup>1</sup>[advocate on the roll of the Supreme Court];
- (d) notarial acts; and
- (e) transfers by endorsement of shares in any incorporated company or other body corporate.

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<sup>1</sup> The words "advocate on the roll of the Supreme Court" were substituted, for the words and comma "advocate, vakil or attorney on the roll of a High Court" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>1</sup>[**11A.** Notwithstanding the other provisions of this Act or any other law for the time being in force, the Government may, by notification in the official Gazette, direct that where the stamp duty payable on an insurance policy exceeds the amount specified in the notification, the entire stamp duty shall be paid only by treasury challan or account-payee pay order or account-payee bank draft in the manner prescribed by such notification or by rules.]

Payment of stamp duties on insurance policy in certain cases by challan, pay order or bank draft

**12.(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; and

Cancellation of adhesive stamps

(b) whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in 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.** 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.

Instruments stamped with impressed stamps how to be written

**14.** 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:

Only one instrument to be on same stamp

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<sup>1</sup> Section 11A was inserted by section 3 of the Finance Act, 2000 (Act No. XV of 2000).

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.

Instrument written contrary to section 13 or 14 deemed unstamped

**15.** Every instrument written in contravention of section 13 or section 14 shall be deemed to be unstamped.

Denoting duty

**16.** Where the 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 that purpose, and on production of both the instruments, be donated upon such first mentioned instrument, by endorsement under the hand of the Collector or in such other manner (if any) as the Government may by rule prescribe.

*C. - Of the time of stamping instruments.*

Instruments executed in Bangladesh

**17.** All instruments chargeable with duty and executed by any person in Bangladesh shall be stamped before or at the time of execution.

Instruments other than bills, and notes executed out of Bangladesh

**18.(1)** Every instrument chargeable with duty executed only out of Bangladesh, and not being a bill of exchange, or promissory note, may be stamped within three months after it has been first received in Bangladesh.

(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 Government may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

**19.** The first holder in Bangladesh of any bill of exchange payable otherwise than on demand or promissory note drawn or made out of Bangladesh shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in Bangladesh, affix thereto the proper stamp and cancel the same:

Bills and notes drawn out of Bangladesh

Provided that,

- (a) if, at the time any such bill of exchange, or note comes into the hands of any holder thereof in Bangladesh, the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section 12; and such holder has no reason 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.

**19A.** [Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).]

*D. – Of Valuations for Duty.*

**20.** (1) Where an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any currency other than that of Bangladesh, such duty shall be calculated on the value of such money in the currency of Bangladesh according to the current rate of exchange on the day of the date of the instrument.

Conversion of amount expressed in foreign currencies

(2) The Government may, from time to time, by notification in the official Gazette, prescribe a rate of exchange for the conversion of British or any foreign currency into the currency of Bangladesh for the purposes of calculating stamp-duty, and such rate shall be deemed to be the current rate for the purposes of sub-section (1).

**21.** 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

Stock and marketable securities how to be valued

or security according to the average price or the value thereof on the day of the date of the instrument.

Effect of statement of rate of exchange or average price

**22.** 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.

Instruments reserving interest

**23.** 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.

Certain instrument connected with mortgagees of marketable securities to be chargeable as agreements

<sup>1</sup>[**23A.** (1) Where an instrument (not being a 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 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 No. 5(c) of Schedule 1.

(2) A release or discharge of any such instrument shall only be chargeable with the like duty.]

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

**24.** 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 whereof the transfer is chargeable with *ad valorem* duty:

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<sup>1</sup> Section 23A was added by the Indian Stamp (Amendment) Act, 1904 (Act No. XV of 1904).

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article No. 18 of Schedule 1.

**Explanation**—In the case of a sale of property subject to a mortgagee or other encumbrance, any unpaid mortgagee-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 mortgagee 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 mortgagee.

*Illustrations*

(1) A owes B Taka 1,000. A sells a property to B, the consideration being Taka 500 and the release of the previous debt of Taka 1,000. Stamp duty is payable on Taka 1,500.

(2) A sells a property to B for Taka 500 which is subject to a mortgagee to C for Taka 1,000 and unpaid interest Taka 200. Stamp-duty is payable on Taka 1,700.

(3) A mortgagees a house of the value of Taka 10,000 to B for Taka 5,000. B afterwards, buys the house from A. Stamp duty is payable on Taka 10,000 less the amount of stamp-duty already paid for the mortgagee.

**25.** 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 a 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

Valuation in case of annuity, etc.

- (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.

Stamp where  
value of  
subject-matter  
is  
indeterminate

**26.** 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 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 Government under the lease, or,
- (b) when the lease has been granted by any other person, at twenty thousand Taka a year;

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease:

Provided also that, where proceedings have been taken in respect of an instrument under section 31 or 41, the amount certified by the Collector shall be deemed to be the stamp actually used at the date of execution.

27. 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.

Facts affecting duty to be set forth in instrument

28.(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.

Direction as to duty in case of certain conveyance

(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.

<sup>1</sup>[(2A). Notwithstanding anything contained in sub-section (1) and (2), where any property mentioned in any of these sub-sections is conveyed to the same person in parts by separate instruments executed within twelve months, the conveyance of the last part shall be chargeable with such amount of duty as would make up the *ad valorem* duty with which the conveyance for the whole property would be chargeable had it been conveyed by one instrument.]

(3) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts 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.

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<sup>1</sup> Sub-section (2A) was inserted by section 3 of the Finance Ordinance, 1984 (Ordinance No. XLII of 1984).

(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 persons 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 three Taka.

(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 afterwards 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 five Taka with a duty of five Taka.

*E. – Duty by whom payable.*

Duties by  
whom payable

**29.** 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 Schedule I, namely:—

No. 2 (Administration Bond),

No. 6 (Agreement relating to Deposit of Title deeds,  
Pawn or Pledge),

- No. 13 (Bill of Exchange),  
No. 15 (Bond),  
No. 16 (Bottomry Bond),  
No. 26 (Customs Bond),  
No. 27 (Debenture),  
No. 32 (Further charge),  
No. 34 (Indemnity-bond),  
No. 40 (Mortgagee deed),  
No. 49 (Promissory-note),  
No. 55 (Release),  
No. 56 (Respondentia Bond),  
No. 57 (Security-bond or Mortgagee-deed),  
No. 58 (Settlement),  
No. 62 (a) (Transfer of shares in an incorporated company or other body corporate),  
No. 62(b) (Transfer of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8),  
No. 62(c) (Transfer of any interest secured by a bond, mortgagee-deed or policy of insurance),-

by the person drawing, making or executing such instrument:

- (b) in the case of a policy of insurance other than fire-insurance - by the person effecting the insurance ;  
(bb) in the case of a policy of fire-insurance—by the person issuing the policy:

- (c) 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:
- (d) in the case of a counterpart of a lease - by the lessor:
- (e) in the case of an instrument of exchange - by the parties in equal shares:
- (f) in the case of a certificate of sale - by the purchaser of the property to which such certificate relates: and
- (g) 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.

**29A.** [*Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).*]

Obligation to give receipt in certain cases

**30.** Any person receiving any money exceeding twenty Taka in amount, or any bill of exchange, cheque or promissory note for an amount exceeding twenty Taka, or receiving in satisfaction or part satisfaction of a debt any movable property exceeding twenty Taka 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.

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 a duly stamped receipt for the same.