



# Stamp Act 1891

## 1891 CHAPTER 39

### PART I

#### REGULATIONS APPLICABLE TO INSTRUMENTS GENERALLY

##### *Charge of Duty upon Instruments*

#### **1 Charge of duties in schedule**

From and after the commencement of this Act the stamp duties to be charged for the use of Her Majesty upon the several instruments specified in the First Schedule to this Act shall be the several duties in the said schedule specified, which duties shall be in substitution for the duties theretofore chargeable under the enactments repealed by this Act, and shall be subject to the exemptions contained in this Act and in any other Act for the time being in force.

#### **2 All duties to be paid according to regulations of Act**

All stamp duties for the time being chargeable by law upon any instruments are to be paid and denoted according to the regulations in this Act contained, and except where express provision is made to the contrary are to be denoted by impressed stamps only.

#### **3 How instruments are to be written and stamped**

- (1) Every instrument written upon stamped material is to be written in such manner, and every instrument partly or wholly written before being stamped is to be so stamped, that the stamp may appear on the face of the instrument, and cannot be used for or applied to any other instrument written upon the same piece of material
- (2) If more than one instrument be written upon the same piece of material, every one of the instruments is to be separately and distinctly stamped with the duty with which it is chargeable.

#### **4 Instruments to be separately charged with duty in certain cases**

Except where express provision to the contrary is made by this or any other Act,—

- (a) An instrument containing or relating to several distinct matters is to be separately and distinctly charged, as if it were a separate instrument, with duty in respect of each of the matters;
- (b) An instrument made for any consideration in respect whereof it is chargeable with ad valorem duty, and also for any further or other valuable consideration or considerations, is to be separately and distinctly charged, as if it were a separate instrument, with duty in respect of each of the considerations.

#### **5 Facts and circumstances affecting duty to be set forth in instruments**

All the facts and circumstances affecting the liability of any instrument to duty, or the amount of the duty with which any instrument is chargeable, are to be fully and truly set forth in the instrument; and every person who, with intent to defraud Her Majesty,

- (a) executes any instrument in which all the said facts and circumstances 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 the said facts and circumstances;

shall incur a fine of ten pounds.

#### **6 Mode of calculating ad valorem duty in certain cases**

- (1) Where an instrument is chargeable with ad valorem duty in respect of—

- (a) any money in any foreign or colonial currency, or
- (b) any stock or marketable security,

the duty shall be calculated on the value, on the day of the date of the instrument, of the money in British currency according to the current rate of exchange, or of the stock or security according to the average price thereof.

- (2) 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 that statement, it is, so far as regards the subject matter of the statement, to be deemed duly stamped, unless or until it is shown that the statement is untrue, and that the instrument is in fact insufficiently stamped.

#### *Use of Adhesive Stamps*

#### **7 Certain adhesive stamps to be applicable to instruments and postal purposes**

Any stamp duties of an amount not exceeding two shillings and sixpence upon instruments which are permitted by law to be denoted by adhesive stamps not appropriated by any word or words on the face of them to any particular description of instrument, and any postage duties of the like amount, may be denoted by the same adhesive stamps.

## **8 General direction as to the cancellation of adhesive stamps**

- (1) An instrument, the duty upon which is required or permitted by law to be denoted by an adhesive stamp, is not to be deemed duly stamped with an adhesive stamp, unless the person required by law to cancel the adhesive stamp cancels the same by writing on or across the stamp his name or initials, or the name or initials of his firm, together with the true date of his so writing, or otherwise effectively cancels the stamp and renders the same incapable of being used for any other instrument, or for any postal purpose, or unless it is otherwise proved that the stamp appearing on the instrument was affixed thereto at the proper time.
- (2) Where two or more adhesive stamps are used to denote the stamp duty upon an instrument, each or every stamp is to be cancelled in the manner aforesaid.
- (3) Every person who, being required by law to cancel an adhesive stamp, neglects or refuses duly and effectually to do so in the manner aforesaid, shall incur a fine of ten pounds.

## **9 Penalty for frauds in relation to adhesive stamps**

- (1) If any person—
  - (a) Fraudulently removes or causes to be removed from any instrument any adhesive stamp, or affixes to any other instrument or uses for any postal purpose any adhesive stamp which has been so removed, with intent that the stamp may be used again; or
  - (b) Sells or offers for sale, or utters, any adhesive stamp which has been so removed, or utters any instrument, having thereon, any adhesive stamp which has to his knowledge been so removed as aforesaid.;he shall, in addition to any other fine or penalty to which he may be liable, incur a fine of fifty pounds.
- (2) The expression " instrument" in this section includes any post letter as defined by the Post Office Protection Act, 1884, and the cover of any post letter.

### *Appropriated Stamps and Denoting Stamps*

## **10 Appropriated stamps**

- (1) A stamp which by any word or words On the face of it is appropriated to any particular description of instrument is not to be used, or, if used, is not to be available, for an instrument of any other description.
- (2) An instrument falling under the particular description to which any stamp is so appropriated as aforesaid is not to be deemed duly stamped, unless it is stamped with the stamp so appropriated.

## **11 Denoting stamps**

Where the duty with which an instrument is chargeable depends in any manner upon the duty paid upon another instrument, the payment of the last-mentioned duty shall, upon application to the Commissioners and production of both the instruments, be denoted upon the first-mentioned instrument in such manner as the Commissioners think fit.

### *Adjudication Stamps*

## **12 Assessment of duty by Commissioners**

- (1) Subject to such regulations as the Commissioners may think fit to make, the Commissioners may be required by any person to express their opinion with reference to any executed instrument upon the following questions:
  - (a) Whether it is chargeable with any duty ;
  - (b) With what amount of duty it is chargeable.
- (2) The Commissioners may require to be furnished with an abstract of the instrument, and also with such evidence as they may deem necessary, in order to show to their satisfaction whether all the facts and circumstances affecting the liability of the instrument to duty, or the amount of the duty chargeable thereon, are fully and truly set forth therein.
- (3) If the Commissioners are of opinion that the instrument is not chargeable with any duty, it may be stamped with a particular stamp denoting that it is not chargeable with any duty.
- (4) If the Commissioners are of opinion that the instrument is chargeable with duty, they shall assess the duty with which it is in their opinion chargeable, and when the instrument is stamped in accordance with the assessment it may be stamped with a particular stamp denoting that it is duly stamped.
- (5) Every instrument stamped with the particular stamp denoting either that it is not chargeable with any duty, or is duly stamped, shall be admissible in evidence, and available for all purposes notwithstanding any objection relating to duty.
- (6) Provided as follows :
  - (a) An instrument upon which the duty has been assessed by the Commissioners shall not, if it is unstamped or insufficiently stamped, be stamped otherwise than in accordance with the assessment:
  - (b) Nothing in this section shall extend to any instrument chargeable with ad valorem duty, and made as a security for money or stock without limit; or shall authorise the stamping after the execution thereof of any instrument which by law cannot be stamped after execution :
  - (c) A statutory declaration made for the purpose of this section shall not be used against any person making the same in any proceeding whatever, except in an inquiry as to the duty with which the instrument to which it relates is chargeable ; and every person by whom any such declaration is made shall, on payment of the duty chargeable upon the instrument to which it relates, be relieved from any fine or disability to which he may be liable by reason of the omission to state truly in the instrument any fact or circumstance required by this Act to be stated therein.

## **13 Persons dissatisfied may appeal**

- (1) Any person who is dissatisfied with the assessment of the Commissioners may, within twenty-one days after the date of the assessment, and on payment of duty in conformity therewith, appeal against the assessment to the High Court of the part of the United Kingdom in which the case has arisen, and may for that purpose require

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the Commissioners to state and sign a case, setting forth the question upon which their opinion was required, and the assessment made by them.

- (2) The Commissioners shall thereupon state and sign a case and deliver the same to the person by whom it is required, and the case may, within seven days thereafter, be set down by him for hearing.
- (3) Upon the hearing of the case the court shall determine the question submitted, and, if the instrument in question is in the opinion of the court chargeable with any duty, shall assess the duty with which it is chargeable.
- (4) If it is decided by the court that the assessment of the Commissioners is erroneous, any excess of duty which may have been paid in conformity with the erroneous assessment, together with any fine or penalty which may have been paid in consequence thereof, shall be ordered by the court to be repaid to the appellant, with or without costs as the court may determine.
- (5) If the assessment of the Commissioners is confirmed the court may make an order for payment to the Commissioners of the costs incurred by them in relation to the appeal.

#### *Production of Instruments in Evidence*

### **14 Terms upon which instruments not duly stamped may be received in evidence**

- (1) Upon the production of an instrument chargeable with any duty as evidence in any court of civil judicature in any part of the United Kingdom, or before any arbitrator or referee, notice shall be taken by the judge, arbitrator, or referee of any omission or insufficiency of the stamp thereon, and if the instrument is one which may legally be stamped after the execution thereof, it may, on payment to the officer of the court whose duty it is to read the instrument, or to the arbitrator or referee, of the amount of the unpaid duty, and the penalty payable on stamping the same, and of a further sum of one pound, be received in evidence, saving all just exceptions on other grounds.
- (2) The officer, or arbitrator, or referee receiving the duty and penalty shall give a receipt for the same, and make an entry in a book kept for that purpose of the payment and of the amount thereof, and shall communicate to the Commissioners the name or title of the proceeding in which, and of the party from whom, he received the duty and penalty, and the date and description of the instrument, and shall pay over to such person as the Commissioners may appoint the money received by him for the duty and penalty.
- (3) On production to the Commissioners of any instrument in respect of which any duty or penalty has been paid, together with the receipt, the payment of the duty and penalty shall be denoted on the instrument.
- (4) Save as aforesaid, an instrument executed in any part of the United Kingdom, or relating, wheresoever executed, to any property situate, or to any matter or thing done or to be done, in any part of the United Kingdom, shall not, except in criminal proceedings, be given in evidence, or be available for any purpose whatever, unless it is duly stamped in accordance with the law in force at the time when it was first executed.

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### *Stamping of Instruments after Execution*

#### **15 Penalty upon stamping instruments after execution**

- (1) Save where other express provision is in this Act made, any unstamped or insufficiently stamped instrument may be stamped after the execution thereof, on payment of the unpaid duty and a penalty of ten pounds, and also by way of further penalty, where the unpaid duty exceeds ten pounds, of interest on such duty, at the rate of five pounds per centum per annum, from the day upon which the instrument was first executed up to the time when the amount of interest is equal to the unpaid duty.
- (2) In the case of such instruments herein-after mentioned as are chargeable with ad valorem duty, the following provisions shall have effect:
- (a) The instrument, unless it is written upon duly stamped material, shall be duly stamped with the proper ad valorem duty before the expiration of thirty days after it is first executed, or after it has been first received in the United Kingdom in case it is first executed at any place out of the United Kingdom, unless the opinion of the Commissioners with respect to the amount of duty with which the instrument is chargeable, has, before such expiration, been required under the provisions of this Act:
  - (b) If the opinion of the Commissioners with respect to any such instrument has been required, the instrument shall be stamped in accordance with the assessment of the Commissioners within fourteen days after notice of the assessment:
  - (c) If any such instrument executed after the sixteenth day of May one thousand eight hundred and eighty-eight has not been or is not duly stamped in conformity with the foregoing provisions of this sub-section, the person in that behalf herein-after specified shall incur a fine of ten pounds, and in addition to the penalty payable on stamping the instrument there shall be paid a further penalty equivalent to the stamp duty thereon, unless a reasonable excuse for the delay in stamping, or the omission to stamp, or the insufficiency of stamp, be afforded to the satisfaction of the Commissioners, or of the court, judge, arbitrator, or referee before whom it is produced:
  - (d) The instruments and persons to which the provisions of this sub-section are to apply are as follows :—

Title of Instrument as described in the First Schedule to this Act.	Person liable to Penalty.
Bond, covenant, or instrument of any kind whatsoever.	The obligee, covenantee, or other person taking the security.
Conveyance on sale	The vendee or transferee.
Lease or tack	The lessee.
Mortgage, bond, debenture, covenant, and warrant of attorney to confess and enter up judgment.	The mortgagee or obligee; in the case of a transfer or reconveyance, the transferee, assignee, or disponee, or the person redeeming the security.
Settlement	The settlor.

- (3) Provided that save where other express provision is made by this Act in relation to any particular instrument:

- (a) Any unstamped or insufficiently stamped instrument which has been first executed at any place out of the United Kingdom, may be stamped, at any time within thirty days after it has been first received in the United Kingdom, on payment of the unpaid duty only : and
  - (b) The Commissioners may, if they think fit, at any time within three months after the first execution of any instrument, mitigate or remit any penalty payable on stamping.
- (4) The payment of any penalty payable on stamping is to be denoted on the instrument by a particular stamp.

*Entries upon Rolls, Books, &c*

**16      Rolls, books, &c, are to be open to inspection**

Every public officer having in his custody any rolls, 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 person thereto authorised by the Commissioners to inspect the rolls, books, records, papers, documents, and proceedings, and to take such notes and extracts as he may deem necessary, without fee or reward, and in case of refusal shall for every offence incur a fine of ten pounds.

**17      Penalty for enrolling, &c. instrument not duly stamped**

If any person whose office it is to enrol, register, or enter in or upon any rolls, books, or records any instrument chargeable with duty, enrolls, registers, or enters any such instrument not being duly stamped, he shall incur a fine of ten pounds.