



HIMACHAL PRADESH

Judicial Services Exam

CIVIL JUDGE (Junior Division)

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Civil Law

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HIMACHAL PRADESH JUDICIARY SERVICES

CONTENTS

S.No.	Chapter Name	Section No.
1.	The Indian Stamp Act, 1899	(Pg. 1)
2.	The Himachal Pradesh Courts Act, 1976	(Pg. 47)
3.	The Specific Relief Act, 1963	(Pg. 59)
4.	India Contract Act, 1872	(Pg. 79)
	Ch. I The Communication, Acceptance and Revocation of Proposals	3-9
	Ch. II Contracts, Voidable Contracts and Void Agreements	10-30
	Ch. III Contingent Contracts	31-36
	Ch. IV The Performance of Contracts, Contracts which must be performed	37-67
	Ch. V Certain Relations Resembling Those Created by Contract	68-72
	Ch. VI The Consequences of Breach of Contract	73-75
	Ch. VII Sale of Goods	76-123
	Ch. VIII Indemnity and Guarantee	124-147
	Ch. IX Bailment	148-181
	Ch. X Agency Appointment and authority of agents	182-238
	Ch. XI Partnership	239-266
4.	Hindu Law	(Pg. 137)
	The Hindu Marriage Act, 1955	
	The Hindu Adoptions and Maintenance Act, 1956	
	The Hindu Minority and Guardianship Act, 1956	
	The Hindu Succession Act, 1956	
	Joint Hindu Family	

5.	Limitation Act, 1963	(Pg. 246)
PART - I	: Preliminary	1-2
PART - II	: Limitation of Suits, Appeals and Applications	3-11
PART - III	: Computation of Period of Limitation	12-24
PART - IV	: Acquisition of Ownership by Possession	25-27
PART - V	: Miscellaneous	28-32
6.	Transfer of Property Act, 1882	(Pg. 265)
Ch. I	Preliminary	1-4
Ch. II	Transfers of Property by Act of Parties	5-53A
Ch. III	Sales of Immovable Property	54-57
Ch. IV	Mortgages of immovable property and charges	58-104
Ch. V	Leases of Immovable Property	105-117
Ch. VI	Exchanges	118-121
Ch. VII	Gifts	122-129
Ch. VIII	Transfers of actionable claims	130-137

The Indian Stamp Act, 1899

The Indian Stamp Act, 1899

(2 of 1899)

CHAPTER I

Preliminary

1. Short title, extent and commencement. -

- (1) This Act may be called The Indian Stamp Act , 1899
- (2) It extends to the whole of India.

Provided that it shall not apply to the territories which, immediately before the 1st November, 1956, were comprised in Part B States (excluding the State of Jammu and Kashmir) except to the extent to which the provisions of this Act relate to rates of stamp-duty in respect of the documents specified in Entry 91 of List i in the Seventh Schedule to the Constitution.

- (1) It shall come into force on the first day of July, 1899.

2. Definitions

In this Act, unless there is something repugnant in the subject or context,

- (1) "Allotment list" means a list containing details of allotment of the securities intimated by the issuer to the depository under sub-section (2) of section 8 of the Depositories, Act, 1996.
 - (1A) "**Banker**" includes a bank and any person acting as a banker;
 - (2) **Bill of exchange** Bill of exchange means a bill of exchange as defined by the Negotiable Instruments Act, 1881 (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;
 - (3) **Bill of exchange payable on demand** 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.
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- (4) **Bill of lading** Bill of lading includes a through bill of lading, but does not include a mates receipt;
 - (5) **Bond** Bond includes but does not include a debenture;
 - (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 by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another; and
 - (c) Any instrument so attested, whereby a person obliges himself to deliver grain or other agricultural produce to another;
 - (6) **Chargeable** 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;
 - (7) **Cheque** cheque means a bill of exchange, drawn on a specified banker and not expressed to be payable otherwise than on demand;
 - (7A) "Clearance list" means a list of transactions of sale and purchase relating to contracts traded on the stock exchanges submitted to a clearing corporation in accordance with the law for the time being in force in this behalf.
 - (7B) "Clearing corporation" means an entity established to undertake the activity of clearing and settlement of transactions in securities or other instruments and includes a clearing house of a recognised stock exchange;
 - (9) **Collector.**
 - (a) means, within the limits of the towns of Calcutta, Madras and Bombay, the Collector of Calcutta, Madras and Bombay, respectively and, without those limits, the Collector of a district, and
 - (b) Includes a Deputy Commissioner and any officer whom the State Government may, by notification in the Official Gazette, appoint in this behalf.
 - (10) **Conveyance** conveyance includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred *inter vivos* and which is not otherwise specifically provided for by Schedule I;
 - (10A) **"Debenture" includes**
 - (i) Debenture stock, bonds or any other instrument of a company evidencing a debt, whether constituting a charge on the assets of the company or not.
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- (ii) Bonds in the nature of debenture issued by any incorporated company or body corporate.
 - (iii) Certificate of deposit, commercial usance bill, commercial paper and such other debt instrument of original or initial maturity upto one year as the Reserve Bank of India may specify from time to time.
 - (iv) Securitised debt instruments; and
 - (v) Any other debt instruments specified by the Securities and Exchange Board of India from time to time;
- (10B) **"depository" includes -**
- (a) A depository as defined in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996; and
 - (b) Any other entity declared by the Central Government, by notification in the Official Gazette, to be a depository for the purposes of this Act.
- (11) **Duly stamped** 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 the law for the time being in force in India.
- (12) **Executed and execution** executed and execution, used with reference to instruments, mean signed and signature; and includes attribution of electronic record within the meaning of section 11 of the Information Technology Act, 2000
- (13) **Impressed stamp** impressed stamp includes
- (a) Labels affixed and impressed by the proper officer, and
 - (b) Stamps embossed or engraved on stamped paper;
- (13-A) **India** means the territory of India excluding the State of Jammu and Kashmir.
- (14) **"Instrument" includes -**
- (a) Every document, by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded.
 - (b) A document, electronic or otherwise, created for a transaction in a stock exchange or depository by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded; and
 - (c) Any other document mentioned in Schedule I, but does not include such instruments as may be specified by the Government, by notification in the *Official Gazette*;
- (15) **Instrument of partition** instrument of partition means any instrument Whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a
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partition passed by any revenue-authority or any civil Court and an award by an arbitrator directing a partition;

(15A) **"Issuer"** means any person making an issue of securities;

(16) **Lease** lease means a lease of immovable property, and includes also

(a) A patta.

(b) A *kabuliyat* or other undertaking in writing, not being a counter-part 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;

(16A) **"Marketable security"** means a security capable of being traded in any stock exchange in India.

(16B) **"market value"**, in relation to an instrument through which -

(a) Any security is traded in a stock exchange, means the price at which it is so traded.

(b) Any security which is transferred through a depository but not traded in the stock exchange, means the price or the consideration mentioned in such instrument.

(c) Any security is dealt otherwise than in the stock exchange or depository, means the price or consideration mentioned in such instrument;

(17) **Mortgage-deed.** 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 an engagement, one person transfers, or creates to, or in favour of another a right over or in respect of specified property.

(18) **Paper.** paper includes vellum, parchment or any other material on which an instrument may be written;

(19) **Policy of insurance.** 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;

(19-A) **Policy of group insurance** 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;

(20) **Policy of sea-insurance or sea-policy** 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;

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;

(21) **Power-of-attorney** 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;

(22) **Promissory note** promissory note means a promissory note as defined by the Negotiable Instruments Act, 1881 (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;

(23) **Receipt** 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; *

(23A) **"securities" includes -**

- (i) Securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956.
- (ii) A "derivative" as defined in clause (a) of section 45U of the Reserve Bank of India Act, 1934.
- (iii) A certificate of deposit, commercial usance bill, commercial paper, repo on corporate bonds and such other debt instrument of original or initial maturity upto one year as the Reserve Bank of India may specify from time to time; and
- (iv) Any other instrument declared by the Central Government, by notification in the Official Gazette, to be securities for the purposes of this Act.

(24) **Settlement** settlement means any non-testamentary disposition, in writing, of movable or immovable 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; *

(25) **Soldier** soldier includes any person below the rank of non-commissioned officer who is enrolled under the Indian Army Act, 1911.

(26) **Stamp** Stamp means any mark, seal or endorsement by any agency or person duly authorised by the State Government, and includes an adhesive or impressed stamp, for the purposes of duty chargeable under this Act.

(27) **"stock exchange" includes -**

- (i) S recognised stock exchange as defined in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956; and
 - (ii) Such other platform for trading or reporting a deal in securities, as may be specified by the Central Government, by notification in the Official Gazette, for the purposes of this Act.
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CHAPTER II

Stamp-Duties

A. Of the liability of instruments to duty

3. Instruments chargeable with duty.

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 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 India 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 India on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated, in India; 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 India on or after that day, relates to any property situate, or to any matter or thing done or, to be done, in India and is received in India:

Provided 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 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, 1894, or under Act XIX of 1838, or the Indian Registration of Ships Act, 1841 (57 and 58 Vict., c. 60. 10 of 1841), as amended by subsequent Acts
 - (3) Any instrument executed, by, or, on behalf of, or, in favour of, the Developer, or Unit or in connection with the carrying out of purposes of the Special Economic Zone.
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4. Several instruments used in single transaction of sale, mortgage or settlement.

- (1) Where, in the case of any sale, mortgage 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, mortgage or settlement, and each of the other instruments shall be chargeable with a duty of one rupee instead of the duty (if any) prescribed for it in that Schedule
- (2) The parties may determine for themselves which of the instrument 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
- (3) Notwithstanding anything contained in sub-sections (1) and (2), in the case of any issue, sale or transfer of securities, the instrument on which stamp-duty is chargeable under section 9A shall be the principal instrument for the purpose of this section and no stamp-duty shall be charged on any other instruments relating to any such transaction.

5. Instruments 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

6. Instruments coming within several descriptions in Schedule I.

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, shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties:

Provided that nothing in this Act contained shall render chargeable with duty exceeding one rupee a counter part or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid

7. Policies of sea-insurance.

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

8. Bonds, debentures or other securities issued on loans under Act 11 of 1879.

- (1) Notwithstanding anything contained in this Act, any local authority raising a loan under the provisions of the Local Authorities Loan Act, 1879 (11 of 1879), 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, sub-division or otherwise
- (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 Central 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

8A. Securities dealt in depository not liable to stamp-duty.

Notwithstanding anything contained in this Act or any other law for the time being in force, -

- (a) An issuer, by the issue of securities to one or more depositories, shall, in respect of such issue, be chargeable with duty on the total amount of securities issued by it and such securities need not be stamped;
 - (b) The transfer of registered ownership of securities from a person to a depository or from a depository to a beneficial owner shall not be liable to duty.
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8-B. Corporatisation and demutualisation schemes and related instruments not liable to duty.

Notwithstanding anything contained in this Act or any other law for the time being in force,

- (a) A scheme for corporatisation or demutualisation, or both of a recognised stock exchange; or
- (b) Any instrument, including an instrument of, or relating to, transfer of any property, business, asset whether movable or immovable, contract, right, liability and obligation, for the purpose of, or in connection with, the corporatisation or demutualisation, or both of a recognised stock exchange pursuant to a scheme,

As approved by the Securities and Exchange Board of India under sub-section (2) of section 4-B of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), shall not be liable to duty under this Act or any other law for the time being in force

8-C. Negotiable warehouse receipts not liable to stamp duty. -

Notwithstanding anything contained in this Act, negotiable warehouse receipts shall not be liable to stamp duty.

8E. Conversion of a branch of any bank into a wholly owned subsidiary of bank or transfer of shareholding of a bank to a holding company of bank not liable to duty

Notwithstanding anything contained in this Act or any other law for the time being in force-

- (a) Conversion of a branch of a bank into a wholly owned subsidiary of the bank or transfer of shareholding of a bank to a holding company of the bank in terms of the scheme or guidelines of the Reserve Bank of India shall not be liable to duty under this Act or any other law for the time being in force; or
 - (b) Any instrument, including an instrument of, or relating to, transfer of any property, business, asset whether movable or immovable, contract, right, liability and obligation, for the purpose of, or in connection with, the conversion of a branch of a bank into a wholly owned subsidiary of the bank or transfer of shareholding of a bank to a holding company of the bank in terms of the scheme or guidelines issued by the Reserve Bank of India in this behalf, shall not be liable to duty under this Act or any other law for the time being in force.
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