

# **<sup>1</sup> The Court-Fees Act, 1870**

(Act No. : VII of 1870).

[Date of Assent : March 11, 1870]

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## <sup>1</sup> **THE COURT-FEES ACT, 1870**

(Act No. : VII of 1870)

[Date of Assent : March 11, 1870]

## **CHAPTER I**

## **PRELIMINARY**

### **Short title**

1. This Act may be called the Court-fees Act, 1870.

**Extent of Act.**— It extends to the whole of <sup>2</sup>[ Bangladesh];

**Commencement of Act.**— And it shall come into force on the first day of April, 1870.

### **[Omitted]**

1A. [Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973(Act No. VIII of 1973).]

### **Definitions**

2. In this Act, unless there is anything repugnant in the subject or context,

(1) "Appeal" includes a cross-objection;

(2) [Omitted by 1st Schedule of the East Pakistan Repealing and Amending Ordinance, 1962 (Ordinance No. XIII of 1962).]

(3) "Collector" includes any officer not below the rank of Sub-Deputy Collector appointed by the Collector to perform the functions of a Collector under this Act;

(4) "Suit" includes an appeal from a decree except in section 8A.

## **CHAPTER II**

### **FEES PAYABLE IN COURTS AND IN PUBLIC OFFICES**

#### **Levy of fees in the High Court Division on their original sides**

3. The fees payable for the time being to the clerks and officers (other than the sheriffs and attorneys) of the <sup>3</sup>[ High Court Division];

or chargeable <sup>4</sup>[ \* \* \*] under No. 11 of the first, and Nos. 7, 12, 14, 20 and 21 of the Second Schedule to this Act annexed;

<sup>5</sup>[ \* \* \*] shall be collected in manner hereinafter appearing.

#### **Fees on documents filed, etc, in the High Court Division in their extraordinary jurisdiction;**

4. No document of any of the kinds specified in the first or Second Schedule to this Act annexed, as chargeable with fees, shall be filed, exhibited or recorded in, or shall be received or furnished by, the <sup>6</sup>[ High Court Division] in any case coming before such Court in the exercise of its extraordinary original civil jurisdiction; or in the exercise of its extraordinary original criminal jurisdiction;

**in their appellate jurisdiction;**— or in the exercise of its jurisdiction as regards appeals from the judgments (other than judgments passed in the exercise of the ordinary original civil jurisdiction of the Court) of one or more judges of the said Court, or of a Division Court;

or in the exercise of its jurisdiction as regards appeals from the Courts subject to its superintendence;

**as Courts of reference and revision.**— or in the exercise of its jurisdiction as a Court of reference or revision;

unless in respect of such document there be paid a fee of an amount not less than that indicated by either of the said Schedules as the proper fee for such document.

#### **Procedure in case of difference as to necessity or amount of fee**

5. When any difference arises between the officer whose duty it is to see that any fee is paid under this chapter and any suitor or attorney, as to the necessity of paying a fee or the amount thereof, the question shall, when the difference arises in the High Court Division, be referred to the taxing-officer, whose decision thereon shall be final, except when the question is, in his opinion, one of general importance, in which case he shall refer it to the final decision of the <sup>7</sup>[ Chief Justice of the Supreme Court], or of <sup>8</sup>[ such Judge of the Supreme Court] as the Chief Justice shall appoint either generally or specially in this behalf. The Chief Justice shall declare who shall be taxing officer within the meaning of the first paragraph of this section.

#### **Fees on documents filed, etc, in Mufassil Courts or in public offices**

6. (1) Except in the Courts hereinbefore mentioned no document of any of the kinds specified as chargeable in the first or second schedule to this Act annexed shall be filed,

exhibited or recorded in any Court of Justice, or shall be received or furnished by any public officer, unless in respect of such document there has been paid a fee of an amount not less than indicated by either of the said Schedules as the proper fee for such document.

(2) Notwithstanding anything contained in sub-section (1) or in any other Act, a Court may receive a plaint or memorandum of appeal in respect of which an insufficient fee has been paid, subject to the condition that the plaint or memorandum of appeal shall be rejected unless the plaintiff or appellant, as the case may be, pays to the Court within a time to be fixed by the Court such reasonable sum on account of court-fees as the Court may direct.

### **CHAPTER III**

#### **COMPUTATION OF FEES**

##### **Computation of fees payable in certain suits**

7. The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows:-

##### **(i) for money;**

i. In suits for money (including suits for damages or compensation, or arrears of maintenance, of annuities, or of other sums payable periodically) -according to the amount claimed:

##### **(ii) for maintenance and annuities;**

ii. In suits for maintenance and annuities or other sums payable periodically-according to the value of the subject-matter of the suit, and such value shall be deemed to be ten times the amount claimed to be payable for one year:

Provided that, in suits by widows for maintenance such value shall be deemed to be the amount claimed to be payable for one year.

##### **(iii) for moveable property having a market-value;**

iii. In suits for moveable property other than money, where the subject-matter has a market-value - according to such value at the date of presenting the plaint:

##### **(iv) (a) for moveable property of no market-value;(b) [Omitted](c) for declaratory decree and consequential relief;(d) for an injunction;(e) for easements;(f) for accounts;**

iv. In suits-

(a) for moveable property where the subject-matter has no market-value, as, for instance, in the case of documents relating to title,

(b) [Omitted by section 7(1) of the Court-fees (Amendment) Act, 1935 (Act No. VII of 1935).]

(c) to obtain a declaratory decree or order, where consequential relief is prayed.

(d) to obtain an injunction.

(e) for a right to some benefit (not herein otherwise provided for ) to arise out of land, and

(f) for accounts- according to the amount at which the relief sought is valued in the plaint or memorandum of appeal subject to the provisions of section 8C.

<sup>9</sup>[ In all such suits the plaintiff shall state the amount at which he values the relief sought:

Provided that in such suits the valuation shall not be such as would attract a court-fee of less than <sup>10</sup>[ two hundred taka].]

##### **(v) for possession of land, buildings or gardens;**

v. In suits for the possession of land, buildings or gardens

(a) according to the value of the subject-matter, and such value shall be deemed to be fifteen times the net profit which have arisen from the land, building or garden during the years next before the date of presenting the plaint, or if the Court sees reason to think that such profit have been wrongly estimated, fifteen times such amount as the Court may assess as such profits or according to the market-value of the land, building or garden, whichever is greater:

(b) if, in the opinion of the Court, such profits are not readily ascertainable or assessable, or where there are no such profits, according to the market-value of the land, building or garden:

**Explanation** In this paragraph "building" includes a house, out-house, stable, privy, urinal, shed, hut, wall and any other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatsoever:

**(vi) to enforce a right of pre-emption;**

vi. In suit to enforce a right of pre-emption-according to the market-value of the land, building or garden in respect of which the right is claimed:

<sup>11</sup>[ Provided that in an application to enforce a right of pre-emption under section 96 of the State Acquisition and Tenancy Act, 1950 (E.B Act No. XXXVIII of 1951) or under section 24 of the Non-Agricultural Tenancy Act, 1949 (E.B Act No XXIII of 1949), a fixed fee of an amount of <sup>12</sup>[ two hundred taka] shall be payable.

**Explanation**In this paragraph "building" has the same meaning as in paragraph v;]-.

**(viA) for partition and separate possession of a share of joint family property, etc**

viA. In suits for partition and separate possession of a share of joint family property or of a joint property, or to enforce a right to a share in any property on the ground that it is joint family property or joint property-

if the plaintiff has been excluded from possession of the property of which he claims to be a co-parcener or co-owner, according to the market value of the share in respect of which the suit is instituted:

**(vii) for interest of assignee of land revenue;**

vii. In suits for the interest of an assignee of land revenue - fifteen times his net profits as such for the years next before the date of presenting the plaint:

**(viii) to set aside an attachment;**

viii. In suits to set aside an attachment of land or of an interest in land or revenue - according to the amount for which the land or interest was attached:

**(viiiA) to set aside decrees;**

viiiA. In suits to set aside decrees passed for ascertained amounts - according to the amounts of the decrees sought to be set aside, or where such decrees are not for any ascertained amounts, the fee payable shall be the same as paid on the plaints of the suits in which the questioned decrees were passed:

Provided that, where such amount exceeds the value of land or interest, the amount of fee shall be computed as if the suit were for the possession of such land or interest:

**(ix) to redeem; to foreclose;**

ix. In suits against a mortgage for the recovery of the property mortgaged, and in suits by a mortgagee to foreclose the mortgage, or, where the mortgage is made by conditional sale, to have the sale declared absolute according to the principal money expressed to be secured by the instrument of mortgage:

**(x) for specific performance;**

x. In suits for specific performance

(a) of a contract of sale - according to the amount of the consideration:

(b) of a contract of mortgage - according to the amount agreed to be secured:

(c) of a contract of lease - according to the aggregate amount of the fine or premium (if any) and of the rent agreed to be paid during the first year of the term:

(d) of an award - according to the amount or value of the property in dispute:

**(xi) between landlord and tenant;**

xi. -In the following suits between landlord and tenant:

(a) for the delivery by a tenant of the counterpart of a lease,

(b) to enhance the rent of a tenant having a right of occupancy,

(c) for the delivery by a landlord of a lease,

(cc) for the recovery of immovable property from a tenant including a tenant holding over after the determination of a tenancy,

(d) to contest a notice of ejection,

(e) to recover the occupancy of immovable property from which a tenant has been illegally ejected by the landlord, and

(f) for abatement of rent according to the amount of the rent of the immovable property to which the suit refers, payable for the year next before the date of presenting the plaint.

**(xii) in suits not expressly provided for in this section**

xii. In suits not expressly provided for in this section, according to the value claimed, but such value shall not be less than a value which would attract a Court-fee of less than fifteen taka.

**Fee on memorandum of appeal against order relating to compensation**

8. The amount of fee payable under this Act on a memorandum of appeal against an order relating to compensation under any Act for the time being in force for the acquisition of land for public purposes shall be computed according to the difference between the amount awarded and the amount claimed by the appellant.

**Statement of particulars of subject-matter of suits and plaintiff's valuation thereof**

<sup>13</sup>[ 8A. In every suit in which an ad valorem court-fee is payable under this Act on the plaint, the plaintiff shall file with the plaint a statement of particulars of the subject-matter of the suit and his own valuation thereof unless such particulars and the valuation are contained in the plaint. The statement shall be in such form and shall contain such particulars as may be prescribed by the Government by notification in the official Gazette. In every such suit the plaintiff shall also, if the Court so directs, file a duplicate copy of the plaint and of the said statement.

**Procedure where insufficient Court-fee is filed on plaint or memorandum of appeal**

8B.(1) In every suit in which a court-fee is payable under this Act on the plaint or memorandum of appeal the Court shall, on the date fixed for the appearance of the opposite party or as soon as may be thereafter, and in every case before proceeding to deliver judgment, record a finding whether a sufficient Court-fee has been paid.

(2) If the Court records a finding that an insufficient court-fee has –been paid on the plaint or memorandum of appeal the Court shall

(a) stay all further proceedings in the suit until it has determined the proper amount of such court-fee payable and the plaintiff or the appellant, as the case may be, has paid such amount or until the date referred to in clause (b) as the case may be:

Provided that if the plaintiff or appellant gives, within such time as the Court may allow, security, to the satisfaction of the Court, for the payment of any additional amount for which he may be found liable the Court may proceed with the suit,

(b) fix a date before which the plaintiff or appellant shall pay the amount of court-fee due from him, as determined by the Court under clause (a).

(3) If the plaintiff or appellant fails to give the security referred to in clause (a) of sub-section (2) or to pay the amount referred to in clause (b) of that sub-section within the time allowed or before the date fixed, by the Court, as the case may be, the suit shall be dismissed.

**Inquiry as to valuation of suits**

8C. If the Court is of opinion that the subject-matter of any suit has been wrongly valued it may revise the valuation and determine the correct valuation and may hold such inquiry as it thinks fit for such purpose.

**Investigation to ascertain proper valuation**

8D.(1) For the purpose of an inquiry under section 8C the Court may depute, or issue a commission to , any suitable person to make such local or other investigation as may be necessary and to report thereon to the Court. Such report and any evidence recorded by such person shall be evidence in the inquiry.

(2) The Court may, from time to time, direct such party to the suit as it thinks fit to deposit such sum as the Court thinks reasonable as the costs of the inquiry, and if the costs are not deposited within such time as the Court shall fix, may, notwithstanding anything contained in any other Act, dismiss the suit if such party is the plaintiff or the appellant and, in any other case, may recover the costs as a public demand.

**Power of persons making inquiry under sections 8C and 8D**

8E.(1) The Court, when making an inquiry under section 8C and any person making an investigation under section 8D shall have, respectively, for the purposes of such inquiry or investigation, the powers vested in a Court under the Code of Civil Procedure<sup>14</sup>, 1908, in respect of the following matters, namely:

- (a) enforcing the attendance of any person and examining him on oath or affirmation;
- (b) compelling the production of documents or material objects; and
- (c) issuing commissions for the examination of witnesses

(2) An inquiry or investigation referred to in sub-section (1) shall be deemed to be a judicial proceeding within the meaning of sections, 193 and 228 of the <sup>14</sup>[ \* \* \* ] Penal Code.

**Costs of inquiry as to valuation and refund of excess fee**

8F. If in the result of an inquiry under section 8C the Court finds that the subject-matter of the suit has been under-valued the Court may order the party responsible for the under valuation to pay all or any part of the costs of the inquiry.

If in the result of such inquiry the Court finds that the subject-matter of the suit has not been undervalued the Court may, in its discretion, order that all or any part of such costs shall be paid by the Government or by any party to the suit at whose instance the inquiry has been undertaken, and if any amount exceeding the proper amount of fee has been paid shall refund the excess amount so paid.]

**[Repealed]**

9 and 10. [Repealed by section 9 of the Court-fees (Amendment) Act, 1935 ( Act No. VII of 1935).]

**Procedure in suits for mesne profits or accounts when amount found due exceeds amount claimed**

11.(1) Where, in any suit for mesne profits or for land and mesne profits or for an account, the fee which would have been payable if the suit had comprised the whole of the relief to which the Court finds the plaintiff to be entitled exceeds the fee actually paid, the Court shall require the plaintiff to pay an additional fee equal to the amount of the excess, and if such additional fee is not paid within such time as the Court may fix, the suit, or if a decree has previously been passed therein, so much of the claim as has not been so decreed, shall be dismissed:

Provided that, where the additional fee is payable in respect of a portion of the claim which can be relinquished, that portion only shall be dismissed.

**Refund where amount decreed is less than amount claimed**

(2) Where in any such suit as is referred to in sub-section (1) the Court-fee paid is found to be in excess of the amount of fee which would be payable if the suit had been valued at the amount decreed, the decree-holder shall be entitled to the refund of the excess of Court-fee paid by him.

**Decision of questions as to valuation**

12. i. Every question relating to valuation for the purpose of determining the amount of any fee chargeable under this chapter on a plaint or memorandum of appeal shall be decided by the Court in which such plaint or memorandum, as the case may be, is filed, and such decision shall be final as between the parties to the suit.

ii. But whenever any such suit comes before a Court of appeal, reference or revision, if such Court considers that the said question has been wrongly decided to the detriment of the revenue, it shall require the party by whom such fee has been paid to pay so much additional fee as would have been payable had the question been rightly decided, and thereafter:

(a) if the party required to pay is the appellant or petitioner, the provisions of sub-sections (2) and (3) of section 8B shall, so far as may be, apply;

(b) if the party required to pay is the respondent or the opposite party, the provisions of sub-section (2) of section 8B shall, so far as may be, apply, and, if such party fails to pay the fee required before the date fixed by the Court, the Court shall recover the amount of such fee from him as a public demand:

**Explanation.-** For the purposes of this section a question relating to the classification of any suit for the purpose of section 7 shall not be deemed to be a question relating to valuation.

**Refund of fee paid on memorandum of appeal**

13. If an appeal or plaint, which has been rejected by the lower Court on any of the grounds mentioned in the Code of Civil Procedure, 1908, is ordered to be received, or if a suit is remanded in appeal, on any of the grounds mentioned in Order XLI, Rule 23 of the First Schedule to the said 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 fee paid on the memorandum 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 fee as would have been originally payable on the part or parts of such subject-matter in respect whereof the suit has been remanded.

**Refund of fee on application for review of judgment**

14. Where an application for a review of judgment is presented on or after the ninetieth day from the date of the decree, the Court, unless the delay was caused by the applicant's laches, may, in its discretion, grant him a certificate authorizing him to receive back from the Collector so much of the fee paid on the application as exceeds the fee which would have been payable had it been presented before such day.

**Refund where Court reverses or modifies its former decision on ground of mistake**

15. Where an application for a review of judgment is admitted, and where, on the rehearing, the Court reverses or modifies its former decision on the ground of mistake in law or fact, the applicant shall be entitled to a certificate from the Court authorizing him to receive back from the Collector so much of the fee paid on the application as exceeds the fee payable on any other application to such Court under the second Schedule to this Act, No. 1, clause (b) or clause (d).

But nothing in the former part of this section shall entitle the applicant to such certificate where the reversal or modification is due, wholly or in part, to fresh evidence which might have been produced at the original hearing.

**[Repealed]**

16. [Repealed by the Code of Civil Procedure, 1908 (V of 1908.)]

**Multifarious suits**

17. (1) In any suit in which two or more separate and distinct causes of action are joined and separate and distinct relief's are sought in respect of each, the plaint or memorandum of appeal shall be chargeable with the aggregate amount of the fees with which the plaints or memoranda of appeal would be chargeable under this Act in separate suits instituted in respect of each such cause of action:

Provided that nothing in this sub-section shall be deemed to affect any power conferred by or under the Code of Civil Procedure, 1908, to order separate trials.

(2) Where more relief's than one based on the same cause of action are sought either jointly or in the alternative, the fee shall be paid according to the value of the relief in respect of which the largest fee is payable.

**Written examinations of complainants**

18. 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, and who has not already presented a petition on which a fee has been levied under this Act, is reduced to writing under the provisions of the Code of Criminal Procedure, 1898, the complainant shall pay a fee of <sup>15</sup>[ fifty paise] unless the Court thinks fit to remit such payment.

**Exemption of certain documents**

19. Nothing contained in this Act shall render the following documents chargeable with any fee:

- i. Power-of-attorney or other written authority to institute or defend a suit when executed by an officer, warrant-officer, non-commissioned officer or private of the <sup>16</sup>[ Bangladesh] Army not in civil employment.
- ii. [Repealed by the Amending Act, 1891 (Act No. XII of 1891).]
- iii. Written statements called for by the Court after the first hearing of a suit.
- iv. [Repealed by the Cantonment Act, 1889 (Act No. XIII of 1889).]
- v-vii. [Omitted by the Adaptation of Central Acts and Ordinances Order, 1949.]
- viii. Probate of a will and letters of administration, where the amount or value of the property in respect of which the probate or letters shall be granted does not exceed two thousand taka.
- ix. Application or petition to a Collector or other officer making a settlement of land-revenue, or to the <sup>17</sup>[ National Board of Revenue] or the Commissioner], relating to matters connected with the assessment of land or the ascertainment of rights thereto or interest therein, if presented previous to the final confirmation of such settlement.
- x. Application relating to a supply for irrigation of water belonging to Government.
- xi. Application for leave to extend cultivation, or to relinquish land, when presented to an officer of land-revenue by a person holding, under direct engagement with Government, land of which the revenue is settled, but not permanently.
- xii. Application for service of notice of relinquishment of land or of enhancement of rent.
- xiii. Written authority to an agent to distrain.
- xiv. First application (other than a petition containing a criminal charge or information) 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 an exhibit not being an affidavit made for the immediate purpose of being produced in court.
- xv. Bail bonds in criminal cases, recognizances to prosecute or give evidence and recognizances for personal appearance or otherwise.
- xvi. [Omitted by the Adaptation of Central Acts and Ordinances Order, 1949].
- xvii. Petition by a prisoner, or other person in duress or under restraint of any Court or its officers.
- xviii. Complaint of a public servant (as defined in the <sup>18</sup>[ \* \* \*] Penal Code), a municipal officer <sup>19</sup>[ \* \* \*].
- xix. Application for permission to cut timber in Government forests, or otherwise relating to such forests.
- xx. Application for the payment of money due by Government to the applicant.
- xxi. Petition of appeal against the choukidari assessment under Act No. XX of 1856, or against any municipal tax.
- xxii. Applications for compensation under any law for the time being in force relating to the acquisition of property for public purposes.
- xxiii. [Omitted by the Adaptation of Central Acts and Ordinances Order, 1949.]
- xxiv. Petition under the Christian Marriage Act, 1872, sections 45 and 48.
- xxv. Petition of appeal by Government servants or servants of a Court of Wards against orders of dismissal, reduction or suspension; copies of such orders filed with such appeals, and applications for obtaining such copies.

<sup>20</sup> **CHAPTER IIIA**

**PROBATES, LETTERS OF ADMINISTRATION AND CERTIFICATES OF ADMINISTRATION**

**Relief where too high a court-fee has been paid**

19A. Where any person on applying for the probate of a will or letters of administration has estimated the property of the deceased to be of greater value than the same has afterwards proved to be, and has consequently paid too high a court-fee thereon, if, within six months after the value of the property has been ascertained, such person produces the probate or letters to the Chief Revenue-Authority for the local area in which the probate or letters has or have been granted,

(a) cancel the stamp on the probate or letters if such stamp has not been already cancelled;

(b) substitute another stamp for denoting the court-fee which should have been paid thereon; and

(c) make an allowance for the difference between them as in the case of spoiled stamps, or repay the same in money, at his discretion.

**Relief where debts due from a deceased person have been paid out of his estate**

19B. Whenever it is proved to the satisfaction of such authority that an executor or administrator has paid debts due from the deceased to such an amount as, being deducted out of the amount of value of the estate, reduces the same to a sum which, if it had been the whole gross amount or value of the estate, would have occasioned a less court-fee to be paid on the probate or letters of administration granted in respect of such estate than has been actually paid thereon under this Act,

Such authority may return the difference, provided the same be claimed within three years after the date of such probate or letters.

But when, by reason of any legal proceeding, the debts due from the deceased have not been ascertained and paid, or his effects have not been recovered and made available, and in consequence thereof the executor or administrator is prevented from claiming the return of such difference within the said term of three years, the said authority may allow such further time for making the claim as may appear to be reasonable under the circumstances.

**Relief in case of several grants**

19C. Whenever a grant of probate or letters of administration has been or is made in respect of the whole of the property belonging to an estate, and the full fee chargeable under this Act has been or is paid thereon, no fee shall be chargeable under the same Act when a like grant is made in respect of the whole or any part of the same property belonging to the same estate.

Whenever such a grant has been or is made in respect of any property forming part of an estate, the amount of fees than actually paid under this Act shall be deducted when a like grant is made in respect of property belonging to the same estate, identical with or including the property to which the former grant relates.

**Probates declared valid as to trust-property though not covered by court-fee**

19D. The probate of the will or the letters of administration of the effects of any person deceased heretofore or hereafter granted shall be deemed valid and available by his executors or administrators for recovering, transferring or assigning any movable or immovable property whereof or whereto the deceased was possessed or entitled, either wholly or partially as a trustee, notwithstanding the amount or value of such property is not included in the amount or value of the estate in respect of which a court-fee was paid on such probate or letters of administration.

**Provision for case where too low a court-fee has been paid on probates, etc**

19E. Where any person on applying for probate or letters of administration has estimated the estate of the deceased to be of less value than the same has afterwards proved to be, and has in consequence paid too low a court-fee thereon, the Chief Revenue-authority for the local area in which the probate or letters has or have been granted may, on the value of the estate of the deceased being verified by affidavit or affirmation, cause the probate or letters of administration to be duly stamped on payment of the full court-fee which ought to have been originally paid thereon in respect of such value and of the further penalty, if the probate or letters is or are produced within one year from the date of the grant, of five-times, or, if it or they is or are produced after one year from such date, of twenty times, such proper court-fee, without any deduction of the court-fee originally paid on such probate or letters:

Provided that, if the application be made within six months after the ascertainment of the true value of the estate and the discovery that too low a court-fee was at first paid on the probate or letters, and if the said Authority is satisfied that such fee was paid in consequence of a mistake or of its not being known at the time that some particular part of the estate belonged to the deceased, and without any intention of fraud or to delay the payment of the proper court-fee, the said Authority may remit the said penalty, and cause

the probate or letters to be duly stamped on payment only of the sum wanting to make up the fee which should have been at first paid thereon.

**Administrator to give proper security before letters stamped under section 19E**

19F. In case of letters of administration on which too low a court-fee has been paid at first, the said Authority shall not cause the same to be duly stamped in manner aforesaid until the administrator has given such security to the Court by which the letters of administration have been granted as ought by law to have been given on the granting thereof in case the full value of the estate of the deceased had been then ascertained.

**Executors, etc, not paying full court-fee on probates, etc, within six months after discovery of under-payment**

19G. Where too low a court-fee has been paid on any probate or letters of administration in consequence of any mistake, or of its not being known at the time that some particular part of the estate belonged to the deceased, if any executor or administrator acting under such probate or letters does not, within six months after the discovery of the mistake or of any effects not known at the time to have belonged to the deceased, apply to the said Authority and pay what is wanting to make up the court-fee which ought to have been paid at first on such probate or letters, he shall forfeit the sum of one thousand taka and also a further sum at the rate of ten taka percent on the amount of the sum wanting to make up the proper court-fee.

**Notice of applications for probate or letters of administration to be given to Revenue-authorities, and procedure thereon**

<sup>21</sup>[ 19H.(1) Where an application for probate or letters of administration is made to any Court other than the High Court Division, the Court shall cause notice of the application to be given to the Collector.

(2) Where such an application as aforesaid is made to the High Court Division, the High Court Division shall cause notice of the application to be given to the Chief Revenue Authority for the local area in which the High Court Division is situated.

(3) The Collector within the local limits of whose revenue- jurisdiction the property of the deceased or any part thereof, is, may at any time inspect or cause to be inspected, and take or cause to be taken copies of, the record of any case in which application for probate or letters of administration has been made; and if, on such inspection or otherwise, he is of opinion that the petitioner has under-estimated the value of the property of the deceased, the Collector may, if he thinks fit, require the attendance of the petitioner (either in person or by agent) and take evidence and inquire into the matter in such manner as he may think fit, and if he is still of opinion that the value of the property has been under estimated, may require the petitioner to amend the valuation.

(4) If the petitioner does not amend the valuation to the satisfaction of the Collector, the Collector may move the Court before which the application for probate or letters of administration was made, to hold an inquiry into the true value of the property:

Provided that no such motion shall be made after the expiration of six months from the date of the exhibition of the inventory required by section 317 of the Succession Act, 1925.

(5) The Court, when so moved as aforesaid, shall hold, or cause to be held, an inquiry accordingly, and shall record a finding as to the true value, as near as may be, at which the property of the deceased should have been estimated. The Collector shall be deemed to be a party to the inquiry.

(6) For the purposes of any such inquiry, the Court or person authorized by the Court to hold the inquiry may examine the petitioner for probate or letters of administration on oath (whether in person or by commission), and may take such further evidence as may be produced to prove the true value of the property. The person authorized as aforesaid to hold the inquiry shall return to the Court the evidence taken by him and report the result of the inquiry, and such report and the evidence so taken shall be evidence in the proceeding, and the Court may record a finding in accordance with the report, unless it is satisfied that it is erroneous.

(7) The finding of the Court recorded under sub-section (5) shall be final, but shall not bar

the entertainment and disposal by the Chief Revenue-Authority of any application under section 19E.

(8) The Government may make rules for the guidance of Collectors in the exercise of the powers conferred by sub-section (3).

#### **Payment of court-fees in respect of probates and letters of administration**

19-I.(1) No order entitling the petitioner to the grant of probate or letters of administration shall be made upon an application for such grant until the petitioner has filed in the Court a valuation of the property in the form set forth in the Third Schedule, and the Court is satisfied that the fee mentioned in No. 11 of the First Schedule has been paid on such valuation.

(2) The grant of probate or letters of administration shall not be delayed by reason of any motion made by the Collector under section 19H, sub-section (4).

#### **Recovery of penalties, etc**

19J.(1) Any excess fee found to be payable on an inquiry held under section 19H, sub-section (6), and any penalty or forfeiture under section 19G, may, on the certificate of the Chief Revenue authority, be recovered from the executor or administrator as if it were an arrear of land revenue by any Collector.

(2) The Chief Revenue-authority may remit the whole or any part of any such penalty or forfeiture as aforesaid, or any part of any penalty under section 19E or of any court-fee under section 19E in excess of the full court-fee which ought to have been paid.

#### **Section 6 and 28 not to apply to probates or letters of administration**

19K. Nothing in section 6 or section 28 shall apply to probates or letters of administration.]

### **CHAPTER IV**

#### **PROCESS-FEES**

##### **Rules as to costs of processes**

20. The <sup>22</sup>[ Supreme Court] shall, as soon as may be, make rules as to the following matters:-

- i. the fees chargeable for serving and executing processes issued by such Court in its appellate jurisdiction, and by the other Civil and Revenue Courts established within the local limits of such jurisdiction;
- ii. the fees chargeable for serving and executing processes issued by the Criminal Courts established within such limits in the case of offences other than offences for which police-officers may arrest without a warrant; and
- iii. the remuneration of the peons and all other persons employed by leave of a Court in the service or execution of processes.

The <sup>23</sup>[ Supreme Court] may from time to time alter and add to the rules so made.

##### **Confirmation and publication of rules**

All such rules, alterations and additions shall, after being confirmed by the Government be published in the official Gazette, and shall thereupon have the force of law.

Until such rules shall be so made and published, the fees now leviable for serving and executing processes shall continue to be levied, and shall be deemed to be fees leviable under this Act.

##### **Tables of process-fees**

21. A table in the English and Vernacular languages, showing the fees chargeable for such service and execution, shall be exposed to view in a conspicuous part of each Court.

##### **Number of peons in District and subordinate Courts**

22. Subject to rules to be made by the <sup>24</sup>[ Supreme Court] and approved by the <sup>25</sup>[ President], every District Judge and every Magistrate of a District shall fix, and may from time to time alter, the number of peons necessary to be employed for the service and execution of processes issued out of his Court and each of the Courts subordinate thereto,

##### **Number of peons in Mofussil Small Cause Courts**

and for the purposes of this section, every Court of Small Causes established under the Small Cause Courts Act, 1887 <sup>26</sup>[ \*\*\*] shall be deemed to be subordinate to the Court of the District Judge.

### **Number of peons in Revenue Courts**

23. Subject to rules to be framed by the Chief Revenue authority and approved by the Government every officer performing the functions of a Collector of a District shall fix, and may from time to time alter, the number of peons necessary to be employed for the service and execution of processes issued out of his Court or the Courts subordinate to him.

### **[Repealed]**

24. [Repealed by the Amending Act, 1891 (Act No. XII of 1891).]

## **CHAPTER V**

### **OF THE MODE OF LEVYING FEES**

#### **Collection of fees by stamps**

25. All fees referred to in section 3 or chargeable under this Act, shall be collected either by stamps <sup>27</sup>[ or, when there is a scarcity of stamps, in cash] or receipts:

Provided that fees chargeable for serving and executing processes issued by a Certificate-officer in the proceedings in execution of certificates filed for recovery of land revenue or rent may be collected in cash.

#### **Stamps to be impressed or adhesive**

26. The stamps used to denote any fees chargeable under this Act shall be impressed or adhesive or partly impressed and partly adhesive, as the Government may, by notification in the official Gazette from time to time direct.

#### **Rules for supply, number, renewal and keeping accounts of stamps**

27. The Government may, from time to time, make rules for regulating

- (a) the supply of stamps to be used under this Act,
- (b) the number of stamps to be used for denoting any fee chargeable under this Act,
- (c) the renewal of damaged or spoiled stamps, and
- (d) the keeping accounts of all stamps used under this Act:

Provided that, in the case of stamps, used under section 3 in the High Court Division, such rules shall be made with the concurrence of the Chief Justice of <sup>28</sup>[ the Supreme Court].

All such rules shall be published in the official Gazette and shall thereupon have the force of law.

#### **Stamping documents inadvertently received**

28. No document for which fee is payable under this Act shall be of any validity, unless and until it is properly stamped or supported by proper receipt. But, if any such document is through mistake or inadvertence received, filed or used in any court or office without being properly stamped or supported by proper receipt, the presiding judge or the Head of the office, as the case may be, or, in the case of the High Court Division, any Judge of such court, may, if he thinks fit, order that such document be stamped or supported by receipt as he may direct; and, on such document being stamped or supported by receipt accordingly the same and every proceeding relative thereto shall be as valid as if it had been properly stamped or supported by receipt in the first instance.

#### **Amended document**

29. Where any such document is amended in order merely to correct mistake and to make it conform to the original intention of the parties, it shall not be necessary to impose fresh stamp or receipt.

#### **Cancellation of stamp**

30. No document requiring a fee under this Act shall be filed or acted upon in any proceeding in any court or office until the stamp or the receipt has been cancelled.

Such Officer as the court or the head of the office may from time to time appoint shall, on receiving any such document, forthwith effect such cancellation by punching out <sup>29</sup>[ Shapla] so as to leave the amount designated on the stamp untouched, and the part removed by punching shall be burnt or otherwise destroyed. The receipt filed along with any document shall be cancelled with the word "Cancelled" thereon under the signature of an officer in whose office it is filed:

Provided that if any document bearing a Court-fee stamp of a design current in <sup>30</sup>[ Pakistan immediately before the twenty sixth day of March, 1971], and still current in Bangladesh is

presented to the proper officer, he shall forthwith effect the cancellation by punching out the figure-head so as to leave the amount designated untouched.

## **CHAPTER VI MISCELLANEOUS**

### **[Repealed]**

31. [Repealed by section 163 of the Code of Criminal Procedure Amendment Act 1923, (Act No. XVIII of 1923).]

### **[Repealed]**

32. [Repealed by the Amending Act 1891 (Act No. XII of 1891).]

### **Administration in criminal cases of documents for which proper fee has not been paid**

33. Whenever the filing or exhibition in a Criminal Court of a document in respect of which the proper fee has not been paid is, in the opinion of the presiding Judge, necessary to prevent a failure of justice, nothing contained in section 4 or section 6 shall be deemed to prohibit such filing or exhibition.

### **Sale of stamps**

34.(1) The Government may, from time to time, make rules for regulating the sale of stamps or granting of receipts to be used under this Act, the person by whom alone such sale is to be conducted or grant is to be made, and the duties and remunerations of such persons.

(2) All such rules shall be published in the official Gazette, and shall thereupon have the force of law.

(3) Any person, appointed to sell stamps or grant receipts, who disobeys any rule made under this section, and any person, not so appointed, who sells or offers for sale any stamp or grants or offers to grant any receipt, shall be punished with imprisonment for a term which may extend to six months, or with fine, which may extend to five hundred taka, or with both.

### **Enlargement of time**

<sup>31</sup>[ 34A. Where any period is fixed or granted by the Court for the doing of any act prescribed or allowed by this Act, the Court may, in its discretion, from time to time enlarge such period, even though the period originally fixed or granted may have expired.]

### **Power to suspend, reduce or remit fees**

35.(1) The Government may from time to time subject to such conditions or restrictions as it may think fit to impose, by notification in the official Gazette, suspend the payment of or reduce or remit, in the whole of <sup>32</sup>[ Bangladesh] or in any part thereof, all or any of the fees mentioned in the first and 2nd schedules to this Act annexed and may in like manner cancel or vary such order.

(2) The Government may, from time to time by rules prescribe the manner in which any fee the payment of which is suspended under sub-section (1) may be realized and for this purpose direct that such fee may be recovered as a public demand.

### **Variation of rates**

<sup>33</sup>[ 35A.(1) The ad valorem fees leviable on the institution of suits specified in Schedule I [as amended before the promulgation of the Court-fees (Amendment) Ordinance, 1962, by any Central or Provincial Act] shall be reduced by fifteen per centum where the value of the subject-matter exceeds two thousand taka but does not exceed fifteen thousand taka and shall be increased by fifteen per centum where the value of the subject-matter exceeds fifteen thousand taka:

Provided that the proper Court-fee, where the value of the subject-matter exceeds two thousand taka but does not exceed two thousand four hundred taka, shall be two hundred eighty-one taka and twenty-five poisha.

(2) The amount of fee leviable after reduction or increase provided for in sub-section (1) shall be calculated to the nearest taka or half taka, whichever it may be.]

### **Saving of fees to certain officers of the High Court Division**

36. Nothing in Chapters II and V of this Act applies to the fees which any officer of the High Court Division is allowed to receive in addition to a fixed salary.

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<sup>1</sup> Throughout this Act, except otherwise provided, the words `the High Court Division`, "Government" and "Taka" were substituted for the words `High Court` or `a High Court` or `any of the High Court`, "Provincial Government" or "appropriate Government" and "rupees" or "Rs." respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>2</sup> The word "Bangladesh" was substituted, for the word "Pakistan" 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 "High Court Division" were substituted, for the words "High Courts" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>4</sup> The words "in each of such Courts" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>5</sup> The words and comma "and the fees for the time being charitable in the Courts of Small Causes at the Presidency-towns, and their several offices" were omitted by the Schedule of the Adaptation of Central Acts and Ordinances Order, 1949.

<sup>6</sup> The words "High Court Division" were substituted, for the words "High Courts" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>7</sup> The words "Chief Justice of the Supreme Court" were substituted, for the words "Chief Justice of such High Court" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>8</sup> The words "such Judge of the Supreme Court" were substituted, for the words "Such Judge of the High Court" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>9</sup> The words, colon and full-stop "In all such suits the plaintiff shall state the amount at which he values the relief sought: Provided that in such suits the valuation shall not be such as would attract a court-fee of less than one hundred taka." were substituted, for the words and full-stop "In all such suits the plaintiff shall state the amount at which he values the relief sought." by section 2 of the Finance Act, 1989 (Act No. XXXVI of 1989)

<sup>10</sup> The words "two hundred taka" were substituted, for the words "five hundred taka" by section 2 of the Court-fees (Amendment) Act, 2002 (Act No. XXIV of 2002)

<sup>11</sup> The proviso and Explanation were substituted, for "Explanation" by section 2 of the Finance Act, 1989 (Act No. XXXVI of 1989).

<sup>12</sup> The words ""two hundred taka" were substituted, for the words "five hundred taka" by section 2 of the Court-fees (Amendment) Act, 2002 (Act No. XXIV of 2002).

<sup>13</sup> Sections 8A, 8B, 8C, 8D, 8E and 8F were inserted by section 8 of the Court-fees (Bengal Amendment) Act, 1935 (Act No. VII of 1935).

<sup>14</sup> The word "Pakistan" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>15</sup> The words "fifty paisa" were substituted, for the words "eight annas" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>16</sup> The word "Bangladesh" was substituted, for the word "Pakistan" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

<sup>17</sup> The words "National Board of Revenue" were substituted, for the words "Board of Revenue" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>18</sup> The word "Pakistan" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>19</sup> The words "or an officer or servant of Railway company" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>20</sup> CHAPTER IIIA was inserted by section 6 of the Probate and Administration Act, 1875 (Act No. XIII of 1875).

<sup>21</sup> Sections 19H, 19-I, 19J and 19K were inserted by section 2 of the Court-fees (Amendment) Act, 1899 (Act No. XI of 1899).

<sup>22</sup> The words "Supreme Court" were substituted, for the words "High Court" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>23</sup> The words "Supreme Court" were substituted, for the words "High Court" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>24</sup> The words "Supreme Court" were substituted, for the words "High Court" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>25</sup> The word "President" was substituted, for the words "Provincial Government" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>26</sup> The words and brackets "(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)" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

<sup>27</sup> The words and commas "or, when there is a scarcity of stamps, in cash" were added by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>28</sup> The words "the Supreme Court" were substituted, for the words "such Court" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>29</sup> The word "Shapla" was replaced, for the words `the crescent and star` by the Bangladesh National Anthem, Flag and Emblem Order, 1972 (President's Order No. 130 of 1972).

<sup>30</sup> The words "Pakistan immediately before the twenty sixth day of March, 1971" were substituted, for the words "British India immediately before the fifteenth day of August, 1947" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>31</sup> Section 34A was inserted by section 14 of the Court-fees (Amendment) Act, 1935 (Act VII of 1935).

<sup>32</sup> The word "Bangladesh" was replaced for the words "East Pakistan" by Article 5 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

<sup>33</sup> Sections 35A was inserted by section 4 of Ordinance, 1962 (Ordinance No. LII of 1962).

## **SCHEDULE**

### **Amending Law(s)**

The Adaptation of Central Acts and Ordinances Order, 1949.

The Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972)

The Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

The Bangladesh National Anthem, Flag and Emblem Order, 1972 (President's Order No. 130 of 1972)

The Court-fees (Amendment) Act, 1899 (Act No. XI of 1899).

The Court-fees (Amendment) Act, 1935 (Act VII of 1935)

The Court-fees (Amendment) Act, 2002 (Act No. XXIV of 2002).

The Court-fees (Bengal Amendment) Act, 1935 (Act No. VII of 1935)  
The Finance Act, 1989 (Act No. XXXVI of 1989)  
The Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978)  
The Ordinance, 1962 (Ordinance No. LII of 1962).  
The Probate and Administration Act, 1875 (Act No. XIII of 1875).

**Provision(s) Repealed/ Omitted by**

The Amending Act 1891 (Act No. XII of 1891).  
The Code of Criminal Procedure Amendment Act 1923, (Act No. XVIII of 1923).

**Law(s) Referred to-**

The State Acquisition and Tenancy Act, 1950 (E.B Act No. XXXVIII of 1951), section 96.  
The Non-Agricultural Tenancy Act, 1949 (E.B Act No XXIII of 1949), section 24.  
The Succession Act, 1925, section 317.  
The Code of Civil Procedure, 1908, Order XLI, Rule 23 of the First Schedule.  
The Small Cause Courts Act, 1887.  
The Christian Marriage Act, 1872, sections 45 and 48.  
The Penal Code, 1860 sections, 193 and 228.  
Act No. XX of 1856.

**Translation**

No Translation Available.

**Associated Subordinate Legislation(s)**

No Subordinate Legislation Available.

**Related Law(s)**

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**Related Judgment Categories**

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