

**Chapter III-A**

**PROBATE, LETTERS OF ADMINISTRATION AND CERTIFICATES OF ADMINISTRATION**

**19-A. Relief where too high a Court-fee has been paid.**  
 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 true value of the property has been ascertained, such person produces the probate or letters to the Chief Controlling Revenue Authority <sup>1</sup>[for the local area] in which the probate or letters has or have been granted,

and delivers to such Authority a particular inventory and valuation of the property to deceased, verified by affidavit or affirmation,

and if such Authority is satisfied that a greater fee was paid on the probate or letters than the law required,

the said Authority may-

- (a) cancel the stamp on the probate or letters, if such stamp has not been already canceled;
- (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.

**Sind Province:**

Ss. 19-A, 19-B, 19-E, 19-F, 19-G, 19-H, 19-I & 19-J, omitted by Sind Ordinance I of 1984, S. 2.

**Baluchistan Province:**

Ss. 19-A & 19-B omitted by Baluchistan Ordinance III of 1984, Section 2.

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

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out of the amount or 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.

**19-C. Relief in case of several grants.** Whenever a grant of probate or letters of administration has been or is made in respect of the whole of 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 then 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.

**19-D. Probates declared valid as to trust-property, though not covered by Court-fee.** 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.

**19-E. Provision for case where too low a Court-fee has been paid on probates, etc.** 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 Controlling Revenue authority for the local area in which the probate or letters has or have been granted may, on the value of 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 if 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 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, of administration and if the said Authority is satisfied that such fee was paid in consequence of a mistake 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 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.

**19-F. Administrator to give proper security before letters stamped under Section 19-E.** 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.

**19-G. Executors etc., not paying full Court-fee on probates, etc. within six months after discovery of under payment.** 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 rupees and also a further sum at the rate of ten rupees per cent, on the amount of the sum wanting to make up the proper Court-fee.

**19-H. Notice of applications for probate or letters of administration to be given to Revenue authorities, and procedure thereon.** (1) Where an application for probate or letters of administration is made to any Court other than a High Court, the Court shall cause notice of the application to be given to the Collector.

(2) Where such an application as aforesaid is made to a High Court, the High Court shall cause notice of the application to be given to the Chief Controlling Revenue Authority <sup>2</sup>[for the local area in which the High Court 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 <sup>3</sup>[either in person or by agent] 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 to the 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 <sup>4</sup>[317] of the Succession Act, 1925, (XXXIX of 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 is this 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 Controlling Revenue Authority of any application under Section 19-E.

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

¶19-I. **Payment of Court-fees in respect of probates and letters of administration.** (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 19-H, sub-section (4).]

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

(2) The Chief Controlling 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 19-E or of any Court-fee under Section 19-E in excess of the full Court-fee which ought to have been paid.]

¶19-K. **Sections 6 and 28 not to apply to probates or letters of administration.** Nothing in Section 6 or Section 28 shall apply to probates or letters of administration.]

## Chapter IV

### PROCESS-FEES

20. **Rules as to cost of processes.** The High Court shall, as soon 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

1. Inst. by Court Fees (Amendment) Act, 1899, S. 2.
2. Inst. by Court Fees (Amendment) Act, 1899, S. 2.
3. Inst. by Court Fees (Amendment) Act, 1899, S. 2.

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in the case of offenses other than offences for which police officers may arrest without a warrant;

- (iii) The remuneration of the peons and all other persons employed by leave of a Court in the service or execution of processes.

The High 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] <sup>4</sup>[Provincial Government] <sup>5</sup>[\*\*\*] be published in the <sup>6</sup>[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.

### **Punjab Province,**

The words "and revenue" occurring between the words "civil" and "Courts" in item one of sections were repealed." [Punjab Land Revenue Act, 17 of 1887 dated 23.9.1987]

**20-A. Exemption for certain process.** (1) Notwithstanding anything contained in the preceding Section or in the rules made thereunder, no fees shall be charged for serving and executing processes on behalf of--

- (a) the prosecution in any criminal proceedings taken on information presented or complaint made by a public officer acting in his official capacity, and
- (b) a liquidator or an arbitrator appointed under the provisions of the Co-operative Societies Act, 1912.

(2) The Provincial Government may by notification determine what persons shall be deemed to be public officers for the purpose of the preceding sub-section. [Punjab Act, 4 of 1939 dated 24.4.1939 and 1 of 1942 dated 24.2.1942]

### **NWFP Province.**

Insert the following Section 20-A after Section 20:

4. Subs. by the A.O., 1937, for "L.G."

5. Words "and sanctioned by the G. G. of I in C." rep. by the Devolution Act, 1920 (38 of 1920), S. 2 & Sch. I

6. Subs. by the A.O., 1937, for "L.G."

**20-A. Exemption for certain processes.** (1) Notwithstanding anything contained in the preceding Section or in the rules made thereunder, no fees shall be charged for serving and executing processes on behalf of the prosecution in any criminal proceedings taken on information presented or complaint made by a public officer acting in his official capacity.

(2) The Provincial Government may by notification determine what persons shall be deemed to be public officers for the purpose of the preceding sub-section." [Inst. by NWFP Act, VIII of 1942, S. 2 dated 27.11.1942]

**21. Table of process-fees.** 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.

**22. Number of peons in District and subordinate Courts.** Subject to rules to be made by the High Court and approved by the Provincial Government,

every District Judge and every Magistrate of a District shall fix, and may from time to time alter, the number of persons 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 Mufassal Small Causes Courts. And for the purposes of the section, every Court of Small Causes established under Act No. IX of 1887 shall be deemed to be subordinate to the Court of the District Judge.

**23. Number of peon in Revenue Courts.** Subject to rules to be framed by the Chief Controlling Revenue Authority and approved by the Provincial 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.

**Punjab Province.**

This Section was repealed so far as the Province of Punjab was concerned. [Punjab Land Revenue Act, 17 of 1887 dated 23.9.1887].

**24. [Process served under this Chapter to be held to be process within meaning of Code of Civil Procedure] Rep. by the Repealing and Amending Act, 1891 (XII of 1891).**

**Chapter V**

**OF THE MODE OF LEVYING FEES**

**25. Collection of fees by stamps.** All fees referred to in Section 3 or chargeable under this Act shall be collected by stamps.

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

27. Rules for supply, number, renewal, and keeping accounts of stamps. The Appropriate 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 a High Court, such rules shall be made with the concurrence of the Chief Justice of such Court.

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

28. Stamping documents inadvertently received. No document which ought to bear a stamp under this Act shall be of any validity, unless and until it is properly stamped.

But, if any such document is through mistake, or inadvertence received, filed or used in any Court or office, without being properly stamped, the presiding Judge or the head of the office, as the case may be, or, in the case of a High Court, any Judge of such Court, may, if he thinks fit, order that such document be stamped as he may direct; and on such document being stamped accordingly, the same and every proceeding thereto, shall be as valid as if it had been properly stamped in the first instance.

### COMMENTS

**Deficiency in Court-fee in appeal.** Where requisite Court-fee for document in question has been supplied with the permission of Court, defect/deficiency would stand completely cured and documents would be treated to be stamped right from the beginning. [PLD 1993 Lah. 90]. In case of document not properly stamp an opportunity has to be given to the party concern to pay proper Court-fee. [PLD 1993 Lah. 90]. Deficiency in the Court-fee made good. Plaint becomes valid and properly stamped documents from the day it was fixed in the first instance. [1997 MLD 556].

**Appeal against order of Rent Controller.** The order having force of decree is governed by Sch. 1 of Art. 1 of the Court Fees Act. The value of the subject-matter in rent appeal is worked out on the basis of annual rental value of the property. [PLD 1991 Lah. 1 (DB)]. Court-fee on applications under West Pakistan Rent Restriction Ordinance, 1959 is payable at the @ Rs. 15/- however in appeal it is valued on the basis annual rental value of the property. [PLD 1984 SC. 289]

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

**30. Cancellation of stamp.** No document requiring a stamp under this Act shall be filed or acted upon in any proceeding in any Court or office until the stamp has been canceled.

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 the crescent and star so as to leave the amount designated on the stamp untouched, and the part removed by the punching shall be burnt or otherwise destroyed.