The Gujarat Court-fees Act, 2004

Act Gujarat Act No. 04 of 2004. 51 sections. Bare Act with the official footnotes.

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[6th March, 2004.]

AN ACT

to consolidate and amend the law relating to fees in the courts and public offices and fees taken in respect of certain matters in the State of Gujarat, other than fees falling under entries 77 and 96 of List I in the Seventh Schedule to the Constitution of India.

It is hereby enacted in the Fifty-fifth Year of the Republic of India as follows :-

CHAPTER I PRELIMINARY

Section 1. Short title, extent, commencement and application

(1) This Act may be called the Gujarat Court-fees Act, 2004.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

(4) The provisions of this Act shall not apply to fees or stamps relating to documents presented or to be presented before any officer serving under the Central Government.

(5) In the absence of any specific provision to the contrary, nothing in this Act shall affect any special law now in force relating to fees taken in the courts and public offices.

Section 2. Definitions

In this Act, unless the context otherwise requires, -

(a) "Chief Controlling Revenue Authority" means such officer, as the State Government may by notification in the Official Gazette, appoint in this behalf for the whole or any part of the State of Gujarat;

(b) "Collector" includes any officer authorised by the Chief Controlling Revenue Authority to perform the functions of a Collector under this Act;

[1][(bb) "e-payment" means payment or refund of court-fees under this Act by electronics mode or a system devised for that purpose, in the manner as may be prescribed.]

(c) "Plaint" includes a written statement pleading a set off or counter claim.

[1] Clause (bb) was inserted by Guj 10 of 2015, s.2.

CHAPTER II COMPUTATION OF FEES

Section 3. Levy of fees in High Court on its original side

The fees payable for the time being to the clerks and officers (other than the sheriffs and attorneys) of the High Court;

or chargeable in that Court under Article 10 of the First Schedule, and Articles 11, 14, 17, 20 and 21 of the Second Schedule annexed to this Act;

shall be collected in the manner hereinafter appearing.

Section 4. Fees on documents field, etc. in courts or in public offices

No document of any of the kinds specified as chargeable in the First or Second Schedule annexed to this Act 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 that indicated by either of the said Schedules as the proper fee for such document.

Section 5. Procedure in case of difference as to necessity or amount of fee

(1) When any difference arises between the officer whose duty is to see that any fee is paid under this Act 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, be referred to the taxing officer, whose decision thereon shall be final, subject to revision, on an application, made within sixty days from the date of the decision, by the suitor or attorney or pleader or such officer as may be appointed in this behalf by the State Government, by the Chief Justice or by such Judge of the High Court as the Chief Justice shall appoint either generally or specially in this behalf. The Chief Justice shall declare the taxing officer within the meaning of this sub-section.

(2) When any such difference arises in the Ahmedabad City Civil Court, the question shall be referred to the Registrar of the City Civil Court, whose decision shall be final, subject to revision, on an application, made within sixty days from the date of the decision, by the party concerned or such officer as may be appointed in this behalf by the State Government, by the Principal Judge or such other Judge of the said Court as the Principal Judge shall appoint either generally or specially in this behalf.

(3) When such difference arises in any other Court, the question shall be referred to the Judge presiding over such Court for final decision.

Section 6. Computation of fees payable in certain suits

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

for money.

(1) 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.

for maintenance and annuities.

(2) In suits for maintenance (with or without a prayer for the creation of a charge), and for 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, in the case of a suit for maintenance, the amount claimed to be payable for one year and in any other case, ten times such amount:

Provided that if in a suit for maintenance, the plaintiff obtains a decree for maintenance, the defendant shall be liable to make good the deficit, if any, between the fee payable on ten times the amount awarded for one year and the fee already paid by the plaintiff; and the amount of such deficit shall, without prejudice to any other mode of recovery, be recoverable as an arrear of land revenue.

for other movable property having a market value.

(3) (a) In suits for movable property other than money, where the subject matter has a market value according to such value at the date of presenting the plaint;

against recovery of any money due as a tax, etc.

(b) in suits for declaration to obtain adjudication against recovery of money from the plaintiff, whether the recovery is as land revenue or arrears of land revenue or tax or duty or cess or fee or fine or penalty or under any decree or order of a court or any certificate or award other than under the Arbitration and Conciliation Act, 1996, or in any other manner, one-fourth of the ad valorem fee leviable on the amount sought to be recovered according to the scale prescribed under Article 1 of Schedule I with a minimum fee of thirty rupees:

Provided that when in addition to any consequential relief other than possession is sought, the amount of fee shall be one-half of the ad valorem fee on the amount sought to be recovered:

Provided further that when the consequential reliefs sought also include a relief for possession, the amount of fee shall be the full ad valorem fee on the amount sought to be recovered;

similar claim in respect of movable property.

(c) in suits for declaration similar to those falling under sub-clause (b) in respect of movable property, one-fourth of the ad valorem fee leviable on the value of the movable property subject to the minimum fee as under sub-clause (b):

Provided that when in addition to any consequential relief other than possession is sought, the amount of fee shall be one-half of the ad valorem fee leviable on the value of such property:

Provided further that when the consequential reliefs also sought include a relief for possession, the amount of fee shall be the full ad valorem fee leviable on such value;

for status with monetary attribute.

(d) in suits for declaration of the status of plaintiff, to which remuneration, honorarium, grant, salary, income, allowance or return is attached, one-fourth of the ad valorem fee leviable on the emoluments or value of return for one year:

Provided that when in addition to any consequential relief other than possession is sought, the amount of fee shall be one-half of the ad valorem fee on such emoluments or value of return:

Provided further that when the consequential reliefs sought also include a relief for possession, the amount of fee shall be the full of the ad valorem fee on such emoluments or value of return.

for ownership etc., for immovable property etc.

(4) In suits for declaration in respect of ownership or nature of tenancy, title, tenure, right, lease, freedom, or exemption from, or non-liability to, attachment with or without sale or other attributes, of immovable property, such as a declaration that certain land is personal property of the Ruler of any former Indian State or public trust property or property of any class or community, one-fourth of the ad valorem fee leviable for a suit for possession on the basis of title of the subject matter, subject to a minimum fee of forty rupees:

Provided that if the question is of attachment with or without sale, the amount of fee shall be the ad valorem fee according to the value of the property sought to be protected from attachment with or without sale or the fee of thirty rupees, whichever is less:

Provided further that, where the defendant is or claims under or through a limited owner, the amount of fee shall be one-sixth of such ad valorem fee, subject to the minimum fee specified above:

Provided also that, in any of the cases falling under this clause except its first proviso, when in addition to any consequential relief other than possession is sought, the amount of fee shall be one-half of the ad valorem fee and when the consequential relief sought also include a relief for possession, the amount of fee shall be the full ad valorem fee.

declaration for easements, etc.

(5) In suits for declaration of easement or right to benefit arising out of immovable property, with or without an injunction or other consequential relief, the amount of fee shall be as shown in the Table below: -

TABLE

Area	Fee
1	2
(a) The area within the limits of the Municipal Corporation.	One-fourth of the ad valorem fee leviable for a suit for possession of the servient tenement or the dominant tenement, whichever is less subject to a minimum fee of thirty rupees.
(b) Area within the limits of Municipality.	One-sixth of the ad valorem fee leviable for a suit for possession of the servient tenement or the dominant tenement, whichever is less, subject to a minimum fee of thirty rupees.
(C) Any other area in the State of Gujarat.	Thirty rupees.

for other status without monetary attribute.

(6) In suits for declaration of status to which no direct monetary attribute is attached such as a declaration that the plaintiff is a married husband or wife of the defendant or divorced husband or wife of the defendant or a declaration about legitimacy of children or about citizenship rights or about an adoption - Sixty rupees:

Provided that where injunction or other consequential relief is also sought in such case, the amount of fee shall be one hundred rupees.

for charge on property.

(7) In suits for declaration of a charge in favour of the plaintiff on movable or immovable property, one-half of the ad valorem fee payable on the charge amount:

Provided that where injunction or other consequential relief is also sought in such cases, the amount of fee shall be the full ad valorem fee payable on the charge amount.

for periodical money returns.

(8) In suits for declaration in respect of periodical charge or money return in favour of or against the plaintiff, one-half of the ad valorem fee payable on the charge for five years if the charge is annual and on the charge for one year if the

period of the charge is less than one year.

for avoidance of sale, contract for sale, etc.

(9) In suits for declaration that any sale or contract for sale or termination of the contract for sale of any moveable or immoveable property is void, one-half of the ad valorem fee leviable on the value of the property.

for avoidance of aquisition procedings.

(10) In suits for declaration that any proceedings for compulsory acquisition of any moveable or immoveable property are void, one-half of the ad valorem fee leviable on the value of the property.

for accounts.

(11) In suits for a 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 8 and subject to a minimum fee of one hundred rupees.

for other declarations.

(12) In suits where declaration is sought, with or without injunction or other consequential relief and the subject matter in dispute is not susceptible of monetary evaluation and which are not otherwise provided for by this Act - one hundred rupees,

In all suits under sub-clauses (b), (c) and (d) of clause (3) and clauses (4) to (11), the plaintiff shall state the amount at which he values the relief sought, with the reasons for the valuation.

for possession of lands, houses and gardens.

(13) In suits for the possession of land, houses and gardens according to the value of the subject matter; and such value shall be deemed to be, where the subject matter is a house or garden according to the market value of the house or garden and where the subject matter is land, and

(a) where the land is held on settlement for a period not exceeding thirty years and pays the full assessment to Government -- a sum equal to twenty times the survey assessment;

(b) where the land is held on a permanent settlement, or on a settlement for any period exceeding thirty years, and pays the full assessment to Government -- a sum equal to forty times the survey assessment; and

(c) where the whole or any part of the annual survey assessment is remitted a sum computed under sub-clause (a) or sub-clause (b), as the case may be, in addition to forty times the assessment, or the portion of assessment, so remitted.

to enforce a right of pre-emption.

(14) In suits to enforce a right of pre-emption according to the value (computed in accordance with the clause (13)) of the land, house or garden in respect of which the right is claimed.

for share in joint property.

(15) In the suits for partition and separate possession of a share of joint family property or of 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 whether or not, the plaintiff is in actual or constructive possession of the property of which he claims to be a co-parcener or co-owner according to the value of the share in respect of which the suit is instituted.

Explanation. - For the purposes of this clause, if the property in which a share is claimed consists of or includes any land assessed to land revenue for the purpose of agriculture; the value of such land shall be deemed to be the value as determined under clause (13).

for interest of assignee of land revenue.

(16) In suits for the interest of an assignee of land revenue, thirty times his net profits as such for the year next before the date of presenting the plaint.

to set aside an attachment.

(17) 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:

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

to redeem.

(18) In suits against a mortgagee for the recovery of the property mortgaged, and in suits by a mortgagee to foreclose the mortgage,

or when 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.

for specific performance.

(19) 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.

between landlord and tenant

(20) 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,

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

(e) to contest a notice of ejectment,

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

(g) 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.

Section 7. Fee on memorandum of appeal against order of award relating to compensation in certain cases

(1) The amount of fee payable under this Act on a memorandum of appeal against an order having the force of a decree 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.

(2) The amount of fee payable under this Act on a memorandum of appeal against an award of a Claims Tribunal preferred under section 173 of the Motor Vehicles Act, 1988, shall be computed as follows: -

(i) if such appeal is preferred by the insurer or owner of the motor vehicle, the full ad valorem fee leviable on the amount at which the relief is valued in the memorandum of appeal according to the scale prescribed under Article I of Schedule I;

(ii) if such appeal is preferred by any other person - one-half of the ad valorem fee leviable on the amount at which the relief is valued in the memorandum of appeal according to the said scale:

Provided that if such person succeeds in the appeal, he shall be liable to make good the deficit, if any, between the full ad valorem fee payable on the relief awarded in the appeal according to the said scale and the fee already paid by him; and the amount of such deficit shall, without prejudice to any other mode of recovery, be recoverable as an arrear of land revenue.

Section 8. Inquiry to valuation of suits

If the Court is of opinion that the subject matter of any suit has been wrongly valued or if an application is made to the Court for the revision of any valuation made, the Court may determine the correct valuation by holding such inquiry as it thinks fit for such purpose, and revise the valuation.

Section 9. Investigation to ascertain proper valuation

(1) For the purpose of an inquiry under section 8, 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, reject the plaint or, as the case may be the appeal, if such party is the plaintiff or the appellant and, in any other case, may recover the costs as a public demand:

Provided that when any plaint or appeal is rejected under this section, the court-fees already paid shall not be liable to be refunded.

Section 10. Power of persons making inquiry under sections 8 and 9

(1) The Court, when making an inquiry under section 8 and any person making an investigation under section 9 shall have respectively for the purposes of such inquiry or investigation, the powers vested in a Court under the Code of Civil Procedure, 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;

(c) issuing commissions for the examination of witnesses;

(d) taking or receiving evidence on affidavits.

(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 Indian Penal Code.

Section 11. Costs of inquiry as to valuation and refund of excess fee

If in the result of an inquiry under section 8, the Court finds that the subject matter of the suit has been undervalued, the Court shall order the party responsible for the under valuation to pay 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 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.

Section 12. Appointment of inspecting officers and recovery in cases reported by them

(1) The State Government may appoint generally, or in any case, or for any specified class of cases, in any local area, one or more officers to be called inspecting officers.

(2) The inspecting officer may, subject to the control of the Court concerned, examine the records of any case which is pending or has been disposed of, with a view to finding out whether proper fees have been paid therein.

(3) If on such examination, the inspecting officer finds that the fee payable under this Act, on any document filed, exhibited or recorded in such case, has not been paid or has been insufficiently paid, he shall report the fact to the presiding officer of the court.

(4) Such presiding officer, after satisfying himself of the correctness of such report, shall record a provisional finding that the proper fee has not been paid and determine the amount of the fee payable and such further sum as he thinks reasonable as the costs of the inquiry and the person from whom the fee or the difference thereof, if any, and the costs shall be recoverable.

(5) After recording the finding under sub-section (4), the presiding officer shall issue a notice to the person referred to in that sub-section to show cause as to why he should not be ordered to pay the fee and the costs determined thereunder, and if sufficient cause is not shown, the presiding officer shall confirm the finding and make an order requiring such person to pay the proper fee and the cost before a specified date.

(6) If such person fails to pay the fee and the costs in accordance with the provisions of sub-section (5), they shall, on the certificate of such presiding officer, be recoverable as an arrears of land revenue.

Section 13. Taxing of Court-fees and their recovery in suits for mense profits or amount

(1) In a suit or proceeding the difference, if any, between the fee actually paid and the fee which would have been payable, on delivery of judgment, be taxed by the court and shall be leviable from the plaintiff and if not paid by him within thirty days from the date of the judgment be recoverable according to the law and under the rules for the time being in force for the recovery of an arrears of land revenue.

(2) The Court shall send a copy of the decree or order or award passed in such suit to the Collector.

(3) No decree passed in any suit by the Court shall be executed, until a certificate to the effect that such difference is paid or recovered, signed by the Court which passed the decree or by the Collector who recovered the amount, is produced along with the application for such execution.

Explanation.- For the purpose of this section, "Plaintiff" includes any party to a suit to whom any profits or amount are or is found to be due.

Section 14. Decision of questions as to valuation

(1) 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.

(2) 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 such additional fee as would have been payable had the question been rightly decided.

Section 15. Refund of fee paid on memorandum of appeal

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 rule 23 of Order XLI in the First Schedule to the same Code for a second decision by the lower Court, the Appellate Court shall grant to the appellant a certificate, authorising 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 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 authorise 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.

Section 16. Refund of fee on application or review of judgement

[1][(1)] Where an application for 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 authorising 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.

[2][(2) The Collector shall refund such fees as provided under sub-section (1), in money which may also be made by e-payment]

[1] This section was renumbered as sub-section (1) by Guj. 10 of 2015, s.3.
[2] Sub-section (2) was added, ibid.

Section 17. Refund where Court reverses or modifies its former decision on ground of mislake

[1][(1)] 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 authorising 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 clause (c) or (f) of Article 1 of the Second Schedule annexed to this Act.

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.

[2][(2) The Collector shall refund such fees as provided under sub-section (1), in money which may also be made by e-payment.]

[1] This section was renumbered as sub-section (1), ibid., s.4.
[2] Sub-section (2) was added, by Guj. 10 of 2015, s.4.

Section 18. Multifarious suits

Where a suit embraces two or more distinct subjects, the plaint or memorandum of appeal shall be chargeable with the aggregate amount of the fees to which the plaints or memoranda of appeal in suits embracing separately each of such subjects would be liable under this Act.

Nothing in the former part of this section shall be deemed to affect the power conferred by the Code of Civil Procedure, 1908, Schedule 1, Order II, rule 6.

Section 19. Written examinations of complaints

When the first or only examination of a person who complaints of the offence of wrongful confinement, or of wrongful restraint, or of any offence other than an offence for which police officer 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, 1973, the complainant shall pay a fee of ten rupees unless the court thinks fit to remit such payment.

Section 20. Exemption of certain documents

Nothing contained in this Act shall render the following documents chargeable with any fee-

(i) Power-of-attorney to institute or defend a suit when executed by a member of any of the Armed Forces of the Union not in civil employment.

(ii) Application for certified copies of documents or of any other purpose in the course of a criminal proceeding presented by or on behalf of the State Government to a criminal Court.

(iii) Written statements called for by the Court after the first hearing of a suit.

(iv) Probate of a will, letters of administration, and, save as regards debts and securities, a certificate under the Bombay Regulation VIII of 1827 or any corresponding law in force, where the amount or value of the property in respect of which the probate or letters or certificate shall be granted does not exceed one thousand rupees.

(v) Application or petition to the Collector or other officer making a settlement of land revenue, or to a Board of Revenue, or a Commissioner of Revenue, 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.

(vi) Application relating to supply for irrigation of water belonging to Government.

(vii) Application for leave to extend cultivation, or to relinquish land, when presented to an officer of a land revenue by a person holding, under direct engagement with Government, land of which the revenue is settled, but not permanently.

(viii) Application for service of notice of relinquishment of land or of enhancement of rent.

(ix) Written authority to an agent to distrain.

(x) Petition, application, charge or information respecting any offence when presented, made or laid to or before a police officer, or to or before the Heads of Villages or the village police.

(xi) Petition by a prisoner, or other person in duress or under restraint of any Court or its officer.

(xii) Complaint of a public servant (as defined in the Indian Penal Code), a municipal officer, or an officer or servant of a railway company.

(xiii) Application for the payment of money due by the Government to the applicant.

(xiv) Petition of appeal against any municipal tax.

(xv) Applications for compensation under any law for the time being in force relating to the acquisition of property for public purposes, other then those chargeable under Article 15 of Schedule 1.

CHAPTER III PROBATES, LETTERS OF ADMINISTRATION AND CERTIFICATES OF ADMINISTRATION

Section 21. Relief where too high a court-fees 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 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 of the 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 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 [1][which may also be made by e-payment], at his discretion.

[1] These words were inserted by Guj. 10 of 2015, s.5.

Section 22. Relief when 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 out of the amounts 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 of administration.

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.

Section 23. 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 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 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.

Section 24. Probates declared valid as to trust property though not covered by court-fees

The probate of the will or the letters of administration of the effects of any person deceased hereto before 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.

Section 25. Provisions for case where too low 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 of administration 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 of administration:

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 of administration, 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 court-fee, the said Authority may remit the said penalty, and cause the probate or letters of administration to be duly stamped on payment only of the sum wanting to make up the fee which should have been at first paid thereon.

Section 26. Administrator to give proper security before letters stamped under section 25

In case of letter of administration on which too low a court-fee has been paid at first; the said Authority shall not cause the same to be fully 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.

Section 27. 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 of administration 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 of administration, 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.

Section 28. 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 the 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 the High Court, the High Court shall cause notice of the application to be given to the Chief Controlling Revenue Authority.

(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 shall forward his report, giving therein his reasons for his opinion and his estimate of the true valuation, to the High Court or any other Court, as the case may be, serving at the same time a copy of his report of the petitioner.

(4) If within thirty days from the date of receipt of the copy of the Collector's report served on him under sub-section (3), the petitioner does not file in Court his objections to the Collector's validation, the Court shall make an order amending the petitioner's valuation, in accordance with the report of the Collector.

(5) If within the aforesaid period, the petitioner filed in Court his objection, the Court shall hold, or cause to be held, an inquiry in accordance with the provisions of sections 9, 10 and 11 as if the application were a suit and shall record the 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) 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 25.

(7) The State Government may make rules for the guidance of Collector, in the exercise of the powers conferred by sub-section (3).

Section 29. Payment of court-fee in respect of probate 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 Article 10 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 report made by the Collector under sub-section (3) of section 28.

Section 30. Recovery of penalties etc

(1) Any excess fee found to be payable on an inquiry held under section 28 and any penalty or forfeiture under section 27, 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 25 or of any court-fee under section 25 in excess of the full court-fee which ought to have been paid.

Section 31. Sections 4 and 40 not to apply to probates or letters of administration

Nothing in sections 4 and 40 shall apply to probates or letters of administration.

CHAPTER IV PROCESS FEES

Section 32. Rules as to costs of process

[Rules as to costs of process] was deleted by Guj. 14 of 2016, s.20.

Section 33. Tables of process fees

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

Section 34. Number of peons in District and Subordinate Courts

Subject to the rules to be made by the High Court and approved by the State Government, every District Judge, the Principal Judge of the City Civil Court and every Magistrate of a District shall fix, and may from time to time alter, the number of peons or 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 mofussil Small Cause Courts.

and for the purposes of this section, every Court of Small Causes established under the law shall be deemed to be subordinate to the Court of the District Judge.

Section 35. Number of peons in Revenue Courts

Subject to rules to be framed by the Chief Controlling Revenue Authority and approved by the State Government, every officer performing the function 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 Courts or the Court subordinate to him.

CHAPTER V MODE OF LEVYING FEES

Section 36. Rate of fee in force on date of presentation of document to be applicable

All fees shall be charged and collected under this Act at the rate in force on the date on which the document chargeable to court-fees is or was presented.

Section 37. Collection of fees [1][**]

(1) All fees chargeable under this Act shall be collected by stamps [2][or by e-payment].

(2) Notwithstanding anything contained in sub-section (1), where -

(a) the State Government, in relation to any area in the State, or

(b) the Collector, in relation to any area in the district under his charge, is satisfied that on account of temporary shortage of stamps in any area, fee cannot be paid, and payment of fee cannot be indicated on documents, by means of stamps, the State Government, or as the case may be, the Collector may by notification in the Official Gazette, direct that in such area and for such period as may be specified in such notification, the fee may be paid in cash in any Government treasury or sub-treasury, and the officer-in-charge of such treasury or sub-treasury shall, on production of a challan evidencing payment of fee in such treasury or sub-treasury, certify such payment by endorsement on the document in respect of which fee has been so paid, and state in the said endorsement the amount of the fee so paid.

(3) An endorsement made on any document under sub-section (2) shall have the same effect as if the fee of an amount equal to the amount stated in the endorsement had been paid in respect of, and such payment had been indicated on, such document by means of stamps under sub-section (1).

[1] In the marginal note, the words "by stamp" were deleted, ibid., s.6(ii).
[2] These words were inserted by Guj. 10 of 2015, s.6(i).

Section 38. Stamps to be impressed or adhesive

[1][In case where the payment of court-fees is made by stamps, the stamps so used shall be impressed of adhesive or partly impressed or partly adhesive, as the State Government may, by notification in the Official Gazette, from time to time, direct.]

[1] Section 38 was substituted, ibid., s.7.

Section 39. Powers of State Government to make rules

The State 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, [1][*]

(d) the keeping accounts of all stamps used under this Act, [2][and]

[3][(e) the manner of payment of court-fees and refund thereof by e-payment:]

Provided that in the case of stamps used under section 3 in the 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.

[1] The word "and" was deleted, ibid., s.8(i).
[2] The word "and" was added, ibid., s.8(ii).
[3] Clause (e) was added, ibid., s.8(iii).

Section 40. Stamping documents Inadvertently received

No documents which ought to bear 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 ease may be, or in the case of the High Court, any Judge of such Court, may, if he thinks fit, order that such document be stamped as he may direct; and, or such document being stamped accordingly, the same and every proceeding relative thereto shall be valid as if it had been properly stamped in the first instance.

Section 41. Amended documents

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.

Section 42. Cancellation of stamps

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 cancelled.

Such officer as the Court or the head of office may from time to time appoint shall, on receiving any such document, forthwith effect such cancellation by punching out the figure-head so as to leave the amount designated on the stamp untouched, and the part removed by punching shall be burnt or otherwise destroyed:

[1][Provided that where court-fees is paid by e-payment the officer competent to cancel the stamps shall verity the genuineness of the payment and after satisfying himself that the court-fees is paid, shall lock the entry in the computer and make an endorsement under his signature on the document that the court-fees is paid and the entry is locked.]

[1] This proviso was inserted by Guj.10 of 2015, s.9.

CHAPTER VI MISCELLANEOUS

Section 43. Repayment of fee in certain circumstances

(1) When any suit in a Court is settled by agreement of parties before any evidence is recorded, or any appeal or cross objection is settled by agreement of parties before it is called on for effective hearing by the Court, half the amount of the fee paid by the plaintiff, appellant, or respondent on the plaint, appeal or cross objection, as the case may be, shall be repaid to him by the Court:

Provided that no such fee shall be repaid if the amount of fee paid does not exceed one hundred rupees or the claim for repayment is not made within one year from the date on which the suit, appeal or cross objection was settled by agreement.

(2) The State Government may, from time to time, by order, provide for repayment to the plaintiffs, appellants or respondents of any part of the fee paid by them on plaints, appeals or cross objections, in suits or appeals disposed of under such circumstances and subject to such conditions as may be specified in the order.

Explanation. - For the purpose of this section, effective hearing shall exclude the dates when the appeal is merely adjourned without being heard or argued.

Section 44. Admission in criminal cases of documents for which proper fee has not been paid

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 shall be deemed to prohibit such filing or exhibition.

Section 45. Sale of stamps

(1) The State Government may, from time to time make rules for regulating the sale of stamps to be used under this Act, the persons by whom alone such sale is to be conducted, and the duties and remuneration 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 who disobeys any rules made under this section, and any person not so appointed who sells or offers for sale only stamp, shall, on conviction, be punished with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees or with both.

Section 46. Power to reduce or remit fees

The State Government may, from time to time, by notification in the Official Gazette, reduce or remit, in the whole or in any part of the territories under its administration all or any of the fees mentioned in the First and the Second Schedule annexed to this Act and may in like manner cancel or vary such order.

Section 47. Saving of fees to certain officers of High Court

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

Section 48. Saving as so stamp duties

Nothing in this Act shall be deemed to affect the stamp duties chargeable under any other law for the time being in force relating to stamp duties.

Section 49. Repeal and savings

The Bombay Court-fees Act, 1959 in its application to the State of Gujarat, is hereby repealed:

Provided that such repeal shall not affect the previous operation of the law so repealed and anything done or any action taken (including any appointment, notification, rules, order, form, application, reference, notice report or certificate made or issued) under the law shall, in so far as this is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provision of this Act and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act.

Section 50. Amendment of Suits Valuation Act, 1887

In the Suits Valuation Act, 1887, in section 9, the words and figures "of the Court-fees Act, 1870 and" shall be deleted.

Section 51. Rules made by Government to be said before State Legislature

(1) All the rules made under this Act, shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to the rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(2) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette, and shall thereupon take effect.

Schedules

The Schedules are not reproduced in this PDF. Each is in the official file, at the page given:

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