

Indian Stamp Act, 1899

Section 49 - Allowance for Spoiled Stamps

Subject to such rules as may be made by 1 [the 2 [State Government]] as to the evidence to be required, or the enquiry to be made, the Collector may, on application made within the period prescribed in section 50, and if he is satisfied as to the facts, make allowance impressed stamps spoiled in the cases herein after mentioned, namely:--

(a) the stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the purpose intended before any instrument written thereon is executed by any person;

(b) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party thereto;

(c) in the case of bills of exchange 3 [payable otherwise than on demand] 1 *** or promissory notes-

(1) the stamp on 4 [any such bill of exchange] 5 *** signed by or on behalf of the drawer which has not been accepted or made use of in any manner whatever or delivered out of his hands for any purpose other than by way of tender for acceptance.

Provided that the paper on which any such stamp is impressed, does not bear any signature intended as or for the acceptance of any bill of exchange 5 *** to be afterwards written thereon:

(2) the stamp on any promissory note signed by or on behalf of the maker which has not been made use of in any manner whatever or delivered out of his hands:

(3) the stamp used or intended to be used for 6 [any such bill of exchange] 7 *** or promissory note signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange 5 *** may have been presented for acceptance or accepted or endorsed, or, being a promissory note, may have been delivered to the payee: provided that another completed and duly stamped bill of exchange 7 *** or promissory note is produced identical in every particular, except in the correction of such commission or error as aforesaid, with the spoiled bill 7 *** or note;

(d) the stamp used for an instrument executed by any party thereto which--

(1) has been afterwards found to be absolutely void in law from the beginning;

(2) has been afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended;

(3) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot be completed so as to effect the intended transaction in the form proposed;

(4) for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended;

(5) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured, or by the refusal or non-acceptance of any office thereby

granted, totally fails of the intended purpose;

(6) becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument between the same parties and bearing a stamp of not less value;

(7) is deficient in value and the transaction intended to be thereby effected has been effected by some other instrument between the same parties and bearing a stamp of not less value;

(8) is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped;

Provided that, in the case of an executed instrument, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and that the instrument is given up to be cancelled.

Explanation.-- The certificate of the Collector under section 32 that the full duty with which an instrument is chargeable, has been paid is an impressed stamp within the meaning of this section.

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1. Substituted by the A.O. 1937, for "the L.G.".
 2. Substituted by the A.O. 1950, for "collecting Government."
 3. Inserted by Act 5 of 1927, Section 5.
 4. Substituted by Section 5, ibid for " any bill of exchange".
 5. The words "or cheque" omitted by Section 5, " any bill of exchange".
 6. Substituted by Act 5 of 1927, Section 5, for "any bill of exchange".
 7. The word "cheque" omitted by Section 5, " any bill of exchange".