

Law on
Offences and Penalties under the Registration Act, 1908

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Sections 81 & 82 of the Registration Act, 1908 provide for different penalties for different offences under the Act. These sections read as under.....

Sec. 81 - Penalty for incorrectly endorsing, copying, translating or registering documents with intent to injure.-
Every registering officer appointed under this Act and every persons employed in his office for the purposes of this Act, who, being charged with the endorsing, copying, translating or registering of any document presented or deposited under its provisions, endorses, copies, translates or registers such document in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause, injury, as defined in the Indian Penal Code (45 of 1860), to any person, shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

Sec. 82- Penalty for making false statements, delivering false copies or translations, false personation, and abetment.-

Whoever-

- (a) intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or inquiry under this Act; or
 - (b) intentionally delivers to a registering officer, in any proceeding under Section 19 or section 21, a false copy or translation of a document, or a false copy of a map or plan;
 - (c) falsely personated another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding or enquiry under this Act; or
 - (d) abets anything made punishable by this Act,
- shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

Sec. 83- Registering officer may commence prosecutions.-

- (1) A prosecution for any offence under this Act coming to the

knowledge of a registering officer in his official capacity may be commenced by or with the permission of the Inspector General, the Registrar or the Sub-Registrar, in whose territories, district or sub-district, as the case may be, the offence has been committed.

(2) Offences punishable under this Act shall be triable by any Court or officer exercising powers not less than those of a Magistrate of the second class.

Sec. 84- Registering officers to be deemed public servants.- (1) Every registering officer appointed under this Act shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).

(2) Every person shall be legally bound to furnish information to such registering officer when required by him to do so.

(3) In section 228 of the Indian penal Code (45 of 1860), the words “judicial proceedings” shall be deemed to include any proceeding under this Act.

Interpreting the provisions of Sec. 83(1) of the Registration Act, 1908, the Hon’ble Supreme Court in the case of **Dharamdeo Rai vs. Ramnagina Rai, (1972) 3 SCR 111** has clarified that Sec. 83(1) is permissive in nature and not prohibitive. The facts of Dharam Deo Rai’s case were as under.....

“A private complaint in connection with the forgery of a Zerpeshgi lease and its registration under the Indian Registration Act was filed against several persons including the appellant. The appellant was acquitted by the trial court. In an appeal filed by the complainant the High Court convicted the appellant under s. 82(d) of the Indian Registration Act for abetment of an offence under s. 82 after overriding his contention that the complaint was not maintainable without the permission as required by s. 83 of the Act. Under s. 83(1) as prosecution for any offence under the Act coming to the knowledge of a registering officer in his official capacity may be commenced by or with the permission of the Inspector-General, the Registrar or the Sub-Registrar in whose territories, district or sub-district as the case may be, the offence has been committed. In appeal by special leave before the Supreme Court the only point argued on behalf of the appellant was that the complaint was incompetent as it was filed by a person without obtaining the necessary permission under s. 83 of the Act and therefore the conviction of the appellant was bad and must be set aside.”

It was on this factual matrix that the Supreme Court laid down that sec. 83(1) is not prohibitory in that it does not preclude, a private person from commencing a prosecution. Even in a case where the commission of offence comes to the knowledge of the

Registering Officer in his official capacity, the section does not prohibit a private person from commencing a prosecution as the section is clearly permissive in language and intent.

Sec. 84 of the Registration Act provides that every Registering Officer under the Act is a public servant within the meaning of Sec. 21 of the IPC. **Sec. 21 of the IPC** defines the word public servant and a Sub-Registrar and the other Authorities under the Registration Act, 1908 are covered within the definition of this section. Protection available to a public servant against prosecutions etc. at the hands of private persons will be available to the Registering Authorities under the Registration Act, 1908 subject to the provisions of Sec.81, 82 & 83 of the Act. The Allahabad High Court in the case of **Dr. Rajendra Prasad Singh vs. State of U.P. & others, 1997 L.CR.R. 454 (All-LB)**, while interpreting Sec. 21 of the IPC, has clarified that every person in the service or pay of Government company is also covered within the definition of public servant U/s. 21 IPC.

Sec. 84(3) provides that the words ‘judicial proceeding’ used in S. 228 IPC shall include any proceedings under the Registration Act, 1908 for the purposes of that section and if directed/notified as Civil Court by the State Government U/s. 347 Cr.P.C., the Registering Authority under the Act may proceed U/s. 228 IPC

against the offender subject to the limitations U/s. 345 & 346 Cr.P.C. Sec. 228 of the IPC reads as under.....

Sec. 228- Intentional insult or interruption to public servant sitting in judicial proceeding.- Whoever intentionally offers any insult, or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Sec. 197 Cr.P.C.- No prosecution of a public servant (including the Registering Authorities under the Act, 1908) can be launched without the prior sanction of the Government. But in case there are allegations against the Registering Authorities as to the commission of more serious offences like indulgence into fraud, deceit, forgery, embezzlement etc. as described in IPC then the protection available to a public servant U/s. 197 of the Cr.P.C. will not be available to them because such protection U/s. 197 Cr.P.C. is available to the public servants against prosecutions etc. in relation to an act having nexus with their official duty and not for the acts which are not part of their official duty. The Hon'ble Supreme Court and the Hon'ble Allahabad High Court, in the cases noted below, have repeatedly laid down that no sanction U/s. 197 of the Cr.P.C. will be required for prosecution of a public

servant for an act amounting to offence which does not form part of his official duty or an act which was not required to be done by the public servant in discharge of his official duties.....

1. **State of Karnataka vs. Ameer Jan, 2007 (59) ACC 811 (SC).**- **Note:** This was a case under Prevention of Corruption Act, 1988 and the sanctioning authority had accorded sanction for prosecution of the public servant without proper application of mind to the documents/material produced before him. In this case the prosecution in the absence of valid sanction order was held to be bad and quashed.
2. **Balbir Singh vs. State of Delhi, 2007(59) ACC 267 (SC).**- **Note:** In this case accused was discharged of the offences under the POTA for want of sanction at the time of cognizance of the offences. But the Supreme Court held that court can proceed against the accused subsequent to the obtaining of sanction for prosecution.
3. **State of Karnataka vs. Pastor P. Raju, AIR 2006 SC 2825.** **Note:** Plea of sanction U/s. 197 Cr.P.C. cannot be raised at the time of registration of the FIR as it applies only at the time of taking cognizance of the offence on submission of police report U/s. 173(2) Cr.P.C.

4. **Jaya Singh vs. K.K. Velayuthan, 2006(55) ACC 805 (SC).** **Note:** Held that a public servant cannot be prosecuted for acts done in connection with his official duties.
5. **C.S. Krishnamurthy vs. State of Karnataka, 2005(3) SCJ 660.** **Note:** This was a case under Prevention of Corruption Act, 1947 and it was held by SC that in case the sanction order was eloquent and speaking, it was valid.
6. **State of Orissa vs. Ganesh Chandra Jew, (2004) 8 SCC 40.** **Note:** In the case of retired public servant it has been held by Hon'ble Supreme Court that if the accused had ceased to be a public servant on the date when the court took cognizance of the offence, sec. 197 Cr.P.C. will not be attracted and no sanction for prosecution of such retired public servant will be required. Similar law has been laid down by the Hon'ble Supreme Court in the following cases also in the matter of retired public servant.....
7. **State of Maha vs. Dr. Buddhikota Subbarao, (1993) 3 SCC 339.**
8. **Kalicharan Mahapatra vs. State of Orissa, (1998) 6 SCC 411.**
9. **R. Balkrishna Pillai vs. State of Kerala, (1996)1 SCC 478.**

10. State of H.P. vs. M.P. Gupta, (2004) 2 SCC 349.

Criminal, civil and departmental proceedings against a public servant can be initiated simultaneously for an act done by him by breaching the provisions of law and the result in any one of them will not bar or adversely affect the proceedings or the result in others as has been clarified by the Supreme Court in the cases noted below.....

1. **Kendriya Vidyalaya Sangathan vs. T. Srinivas, (2004) 7 SCC 442.**
2. **State Bank of India vs. R.B. Sharma, (2004) 7 SCC 27.**
3. **Depot Manager Andhra Pradesh SRTC vs. Mohd. Yousuf Miya, (1997)2 SCC 699.**
4. **State of Rajasthan vs. B.K. Meena, (1996) 6 SCC 417.**
5. **Capt. M. Paul Anthony vs. Bharat Gold Mines Ltd., (1999) 3 SCC 679.**

In case of contempt of lawful authority of a public servant, no private person can initiate prosecution of the contemnor/accused except the public servant himself whose contempt has been committed by the contemnor as provided U/s. 195(1)(a)(i to iii) r/w Sec. 340 of the Cr.P.C.

Explaining the provisions of Sec. 195(1)(b)(ii) r/w Sec. 340 Cr.P.C., a five Judge Bench of the Supreme Court in the matter of **Iqbal Singh Marwah v. Meenakshi Marwah, 2005(51) ACC 910 (SC—Five Judge Bench)** has held as under.....

“Bar U/s. 195(1)(b)(ii) in relation to the prosecution of an accused for offences U/s. 192, 193, 463, 464, 465, 467, 469, 471 IPC is attracted only when offence was committed with respect to the document after it is produced in court.” If the offences in relation to the document regarding forgery/interpolation etc. were completed outside the court and thereafter the same was produced in the court then the bar U/s. 195(1)(b)(ii) Cr.P.C. will not be attracted and in that event the complaint by court for those offences U/s. 195/340 Cr.P.C. will not be filed. The remedy of a person affected by such offences is to himself lodge a FIR with the police or file a private complaint against the offender.

Various offences relating to the stamps as described in the Indian Stamp Act, 1899 are quoted below.....

Sec. 62. Penalty for executing, etc., instrument not duly stamped. - (1) Any person -

(a) drawing, making, issuing, endorsing or transferring, or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying or receiving payment of or in any manner negotiating, any bill of exchange payable otherwise than on demand, or promissory note without the same being duly stamped; or

(b) executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped; or

(c) voting or attempting to vote under any proxy not duly stamped,

shall for every such offence be punishable with fine which may extend to five hundred rupees :

Provided that, when any penalty has been paid in respect of any instrument under Section 35, Section 40 or Section 61, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

(2) If a share warrant is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other

principal officer of the company, shall be punishable with fine which may extend to five hundred rupees.

Sec. 63. Penalty for failure to cancel adhesive stamp. - Any person required by Section 12 to cancel an adhesive stamp, and failing to cancel such stamp in manner prescribed by that section, shall be punishable with fine which may extend to one hundred rupees.

Sec. 64. Penalty for omission to comply with Provisions of Section 27. - Any person who, with intent to defraud the Government, -

(a) executes any instrument in which all the facts and circumstances required by Section 27 to be set forth in such instrument are not fully and truly set forth; or

(b) being employed or concerned in or about the preparation of any instruments, neglects or omits fully and truly to set forth therein all such facts and circumstances; or

(c) does any other act calculated to deprive the Government of any duty or penalty under this Act,
shall be punishable with fine which may extend to five thousand rupees.

Sec. 65. Penalty for refusal to give receipt; and for devices to evade duty on receipt. - Any person who, -

(a) being required under section 30 to give a receipt, refuses or neglects to give the same; or

(b) with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding twenty rupees in amount or value, gives a receipt for an amount or value not exceeding twenty rupees, or separates or divides the money or property paid or delivered,

shall be punishable with fine which may extend to one hundred rupees.

Sec. 66. Penalty for not making out policy or making one not duly stamped. - Any person who-

(a) receives, or takes credit for, any premium or consideration for any contract of insurance and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly stamped policy of such insurance; or

(b) makes, executes or delivers out any policy which is not duly stamped, or pays or allows in account, or agrees to pay or allow in account, any money upon, or in respect of, any policy, shall be punishable with fine which may extend to two hundred rupees.

Sec. 67. Penalty for not drawing full number of bills or marine policies purporting to be in sets. - Any person drawing or executing a bill or exchange payable otherwise than on demand or

a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be punishable with fine which may extend to one thousand rupees.

Sec. 68. Penalty for post-dating bills, and for other devices to defraud the Revenue. - Any person who, -

(a) with intent to defraud the government of duty, draws, makes or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made; or

(b) knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays or receives payment of, such bill or note, or in any manner negotiates the same; or

(c) with the like intent, practice or is concerned in any act, contrivance or device not specially provided for by this Act or any other law for the time being in force, shall be punishable with fine which may extend to one thousand rupees.

Sec. 69. Penalty for breach of rule relating to sale of stamps

and for unauthorized sale. - (a) Any person appointed to sell stamps who disobeys any rule made under Section 74, and

(b) any person not so appointed who sells or offers for sale any stamp (other than a ten naye paise or five naye paise adhesive stamp),

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Sec. 70. Institution and conduct or prosecutions. - (1) No

prosecution in respect of any offence punishable under this Act or any Act hereby repealed, shall be instituted without the sanction of the Collector or such other officer as the State Government generally, or the Collector specially, authorizes in that behalf.

(2) The Chief Controlling Revenue-authority, or any officer generally or specially authorized by it in this behalf, may stay any such prosecution or compound any such offence.

(3) The amount of any such composition shall be recoverable in the manner provided by Section 48.

Sec. 71. Jurisdiction of Magistrates.- No magistrate other than a

Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the second class, shall try any offence under this Act.

Sec. 72. Place of trial. - Every such offence committed in respect of any instrument may be tried in any district or presidency-town in which such instrument is found, as well as in any district or presidency-town in which such offence might be tried under the Code of Criminal Procedure for the time being in force.

Various penal sections relating to the offences regarding stamps as contained in IPC are also quoted below.....

Sec. 255. Counterfeiting Government stamp.- Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government for the purpose of revenue, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation- A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination.

Sec. 256. Having possession of instrument or material for counterfeiting Government stamp- Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with

imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Sec. 257. Making or selling instrument for counterfeiting Government stamp- Whoever makes or performs any part of the process of making, or buys, or sells, or disposes of, any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Sec. 258. Sale of counterfeit Government stamp- Whoever, sells, or offers for sale, any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Sec. 259. Having possession of counterfeit Government stamp- Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government for the purpose of revenue, intending to use, or dispose of the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a

term which may extend to seven years, and shall also be liable to fine.

Sec. 260. Using as genuine a Government stamp known to be a counterfeit- Whoever uses as genuine any stamp, knowing it to be counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Sec. 261. Effacing, writing from substance bearing Government stamp, or removing from document a stamp used for it, with intent to cause loss to Government- Whoever, fraudulently or with intent to cause loss to the Government, removes or effaces from any substance, bearing any stamp issued by Government for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Sec. 262. Using Government stamp known to have been before used- Whoever, fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by

Government for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Sec. 263. Erasure of mark denoting that stamp has been used- Whoever, fraudulently or with intent to cause loss to Government, erases or removes from a stamp issued by the Government for the purpose of revenue, any mark, put or used, or knowingly has in his possession or sells or disposes of any such stamp from which such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Sec. 263-A. Prohibition of fictitious stamps- (1) Whoever-

- (a) makes, knowingly utters, deals in or sells any fictitious stamps, or knowingly uses for any postal purpose any fictitious stamp, or
- (b) has in his possession, without lawful excuse, any fictitious stamp, or
- (c) makes or, without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp.

Shall be punished with fine which may extend to two hundred rupees.

(2) Any such stamps, die, plate, instrument or materials in his possession of any person for making any fictitious stamp may be seized and shall be forfeited.

(3) In this section “fictitious stamp” means any stamp falsely purporting to be issued by the Government for the purpose of denoting a rate of postage, or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for that purpose.

(4) In this section and also in section 255 to 263, both inclusive, the word “Government”, when used in connection with, or in reference to, any stamp issued for the purpose of denoting a rate of postage, shall, notwithstanding anything in section 17, be deemed to include the person or persons authorized by law to administer executive Government in any part of India, and also in any part of Her Majesty’s dominions or in any foreign country.

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