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# Kerala Registration Manual

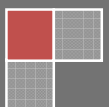
Volume II- Part I

[DEPARTMENTAL ORDERS]

ASHOKAN P R

Digital Reference Series - 020

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**KERALA  
REGISTRATION  
MANUAL**

**(VOLUME-II)**

**PART-I  
(Departmental Orders)**

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# KERALA REGISTRATION MANUAL

## (VOLUME-II)

### PART-I (Departmental Orders)

#### CHAPTER I

### General set up of the Department

1. ***The date of commencement of the department:***— The registration Department started functioning from 1<sup>st</sup> Dhanu 1043 M.E. in the Travancore area under Act I of 1042, from 1<sup>st</sup> Edavam 1050 M.E. in the Cochin area under Act I of 1049 of the erstwhile Cochin State and from 1<sup>st</sup> January 1865 AD in the Malabar Area under Act XVI of 1864 AD (Madras). The three units have been integrated to form the present Registration Department with the formation of the Kerala State from 1<sup>st</sup> November 1956 and the Registration Act 1908 is in force throughout the State.
2. ***Objects of the Law of Registration:***— Registration Law governs documents rather than transaction. The main objects of the law of registration are
  - (a) to provide a conclusive proof of the genuineness of documents;
  - (b) to afford publicity to transactions;
  - (c) to prevent fraud;
  - (d) to afford facility for ascertaining whether a property has already being dealt with; and
  - (e) to afford security of title deeds and facility of proving titles in case the original deeds are lost or destroyed.
3. ***Other Laws administered by the Registration Department:***— Besides the Law of Registration, the following laws are also administered by the Registration Department-
  - (1) ***Stamp Act:***— Registrars are Collectors under section 31, 32, 37, 38(1), 39 and 41 of the Kerala Stamp Act, 1959.
  - (2) ***The Travancore Chitties' Act, 1126 and the Cochin Kuries' Act:***— All Sub Registrars in the Travancore area are appointed Ex-officio Registrars under the Travancore Chitties Act and all Sub Registrars in the Cochin areas as Registrars under the Kuries Act. The Registrars of the districts, Chitty Auditors and the Chitty Inspectors exercise powers of inspection and audit of chitties or kuries respectively within their jurisdiction.
  - (3) ***The Indian Partnership Act (ACT IX of 1932):***— The Inspector General of Registration functions as the Registrar of Firms under this Act.
  - (4) ***The Travancore-Cochin Literary, Scientific and Charitable Societies' Registration Act (Act XII of 1955) and Societies Registration Act of 1860 (Central Act XXI of 1860):***— The Inspector General of Registration is the Registrar of Societies under these Acts. The powers of the Inspector General of Registration have been delegated to the Registrars of the respective Districts.

- (5) The Inspector-General of Registration functions as Registrar of Non-Trading Companies in the State under the Kerala Non-Trading Companies Act (Act 42 of 1961).
  - (6) The Inspector General of Registration is the Licensing Authority for the issue of licences of Document Writers and Scribes under the Kerala Document Writers' Licences Rules, 1960. The Inspector of Registration Offices, Trivandrum is competent to renew State Licences. A District Registrar is competent to renew the licence for his district. A Sub Registrar is competent to renew the Sub-District Licence.
  - (7) *The Special or Civil Marriage Act:*— All Registrars and Sub Registrars have been appointed as Marriage Officers under the Special Marriage Act (Central Act 43 of 1954) within their respective jurisdiction.
4. The service mainly consists of six categories of officers besides the clerical staff and last grade servants. Rules regarding appointment, promotion and other service conditions are furnished in Appendix II.

#### **Powers of Board of Revenue over the Department**

5. The Board of Revenue exercises a general supervision over the Department as detailed hereunder:-
- (i) The Board of Revenue has the power to inspect any Registration Office and to forward their inspection reports to the Inspector General of Registration for necessary action.
  - (ii) The Inspector General of Registration shall send a quarterly report to the Board of Revenue regarding matters of policy, budgeting and expenditure.
  - (iii) All proposals to Government on the following matters of policy shall also be routed through the Board:—
    - (a) Questions connected with the formation of the Kerala State.
    - (b) Location of offices.
    - (c) Formation of new Districts and Sub Districts and defining their jurisdiction subject to powers already vested in the Heads of Department.
    - (d) Promulgation of new Acts and Rules.
    - (e) Questions involving increase or reduction of staff.
    - (f) All Budget proposals of the Department.

#### **Organisation of the Office of the Inspector General**

6. (a) The Inspector General of Registration is the Head of the Department. He is assisted in the discharge of his duties by a Personal Assistant, a Law Officer, Senior Superintendents, Junior Superintendents and a Cashier.
- (b) The various powers that have been delegated to the Inspector General, Inspector of Registration Offices, Personal Assistant, and District Registrars and Sub Registrars, by Government are described in Appendix III. The Senior Superintendents exercise supervision over the important sections of Establishment and inspection while Junior Superintendents are in charge of the other sections.

**Organisation of the Office of the Inspector of Registration Offices.**

7. (a) The State is divided into three zones with headquarters and jurisdiction as follows:—

<i>Headquarters</i>	<i>Jurisdiction</i>
1. Trivandrum	Districts of Trivandrum and Quilon.
2. Ernakulam	Districts of Alleppey, Kottayam, Idukki, Ernakulam and Trichur.
3. Kozhikode	Districts of Palghat, Malappuram, Kozhikode and Cannanore.

- (b) Each zone is under the charge and control of an officer designated as “Inspector of Registration Offices”.

- (c) The Internal Auditor and his staff will be under the Inspector of Registration Offices of the respective zone and will be attached to the office of the Inspector.

- (d) The following duties are delegated to the Inspector of Registration Offices:

- (i) Surprise Inspection of Sub Registry Offices.
- (ii) Annual Inspection of amalgamated Sub Registry Offices.
- (iii) Enquiries of public complaints.
- (iv) Disposal of audit reports of Internal Auditors.

- (e) The Inspector at Headquarters will be given the following additional powers:

- (i) Renewal of State Licence of Document Writers and Scribes and
- (ii) Disposal of Inspection reports of Sub Registry Offices by Registrars except waiving the recovery of deficits.

- (f) (i) Three Audit Units have been formed with a view to intensify the work of receipt audit. These units form the Internal Audit wing of this Department. The grouping of the Audit Unit is as follows:—

- (1) Trivandrum and Quilon Registration Districts form one unit with head quarters at Trivandrum.
- (2) Alleppey, Idukki, Kottayam, Ernakulam and Trichur Registration Districts form another unit with headquarters at Ernakulam.
- (3) Palghat, Kozhikode, Malappuram and Cannanore Districts form the third unit with headquarters at Kozhikode.

- (ii) Each unit will consist of a Sub Registrar (2nd Grade) and two U.D.Clerks. They will be under the Inspector of Registration offices of the respective zone and will be attached to the office of the Inspector.

**Organisation of the Office of the District Registrar**

8. (a) There are eleven Registration Districts in the State, namely Trivandrum, Quilon, Alleppey, Idukki, Kottayam, Ernakulam, Trichur, Palghat, Malappuram, Kozhikode and Cannanore.

(b) Each district is under the charge and control of an officer designated as "Registrar". The details regarding jurisdiction of Registrars are furnished in Appendix IV.

(c) The clerical staff in the Office of the District Registrar is headed by a Junior Superintendent. The Registrar is assisted by the Principal Sub Registrar at the District Headquarters. He will be the senior most first Grade Sub Registrar of the District.

(d) A Sub Registrar who has relinquished his future promotion as District Registrar shall not be posted as Amalgamated Sub Registrar.

(e) A Sub Registrar who has been overlooked once by the Departmental Promotion Committee for promotion as District Registrar shall not be posted as Amalgamated Sub Registrar until and unless he is included in the select list for promotion as District Registrar.

(f) No person shall be allowed to continue as Amalgamated Sub Registrar for more than 3 years and the norms of transfers shall apply to them also.

#### **Amalgamated Sub Registrar**

9. (a) The Sub Registry Office or the Principal Sub Registry Office at the District Headquarters of each District is amalgamated with the office of the Registrar under section 7(2) of the Indian Registration Act.
- (b) Certain functions and powers of the Registrar are delegated to the Sub Registrar of the Office so amalgamated which are described in Appendix V.
- (c) The amalgamated office will have two sections whether housed in the same building or not, namely, (i) the supervising Section and (ii) the registering section.
10. Registration of documents, filing, indexing, attesting and accounting of all documents, files and powers including registration under section 30(1), receipt, filing and disposal of copies and memoranda under section 65 and 66(3), preparation and despatch of memo and copies under section 66(i) and (ii) of the Indian Registration Act, issue of copies and certificates and all other functions normally to be attended to by a Sub Registrar will be the work of the Registering Section. Registration, filing, indexing and accounting of the section will be in the same books, files, indexes and accounts irrespective of the facts as to whether the work performed is by a Sub Registrar or a Registrar.
11. The Supervising or District section proper, will confine itself to inspection, appeals, functions under Chapter IV of the Registration Rules and control and supervision of the offices within the district. The returns connected with these functions of the Supervising section will be treated as district accounts and they shall be attended to by that section.
12. The Registrar will attend the functions of the supervising section. While the Sub Registrar besides attending to the ordinary functions of the Registration section, will supervise the work of the District section also subject to the control and direction of the Registrar.

13. The Sub Registrar of an amalgamated office may attend to registration under section 30(1) even when a Registrar is at headquarters. In writing the endorsement on documents registered as such the Sub Registrar shall designate himself as 'Sub Registrar exercising the powers of the Registrar' and the Office will be styled in the endorsement as Registrar's Office. But the Deposit of Wills, opening of sealed covers containing wills and such other duties shall be attended to by the Registrar himself. No authorisation in such items is allowed unless charge of the office is handed over.
14. All papers in the supervisory section shall be submitted to the Registrar through the Sub Registrar of the amalgamated office.
15. The Sub Registrar of the amalgamated office is authorised to sign 'FOR' Registrar and communicate letters or orders, the drafts of which have been approved by the Registrar. But he shall not sign or countersign any pay bill, or contingent bill or travelling allowance bill or certificates to be signed or countersigned by the Registrar.
16. A Registrar and the Sub Registrar shall not ordinarily be absent from headquarters at the same time. When the Registrar is absent either on duty or otherwise, the Sub Registrar will attend to his delegated powers in the District section besides his own routine functions. He will attend to and dispose of papers of a routine nature in anticipation of the approval of the Registrar. He may also gather information or clarification or statistics from subordinate offices regarding papers of an important nature relating to the policy of the Department or questions relating to stamp and fee, so that expeditious disposal of such papers may be facilitated when the Registrar resumes charge. When the Sub Registrar of the amalgamated office is absent, the District Registrar will attend to his special functions in the Registering section, the routine functions of the Registering section including registration of documents being left to the officer to whom the amalgamated Sub Registrar has handed over charge.
17. When the Registrar is on tour, casual leave or otherwise absent from headquarters and the Sub Registrar of the Amalgamated Office falls ill or has to be unavoidably absent, the Junior Superintendent of the Registrar's Office or the Junior Superintendent of the Sub Registry Office, whoever is senior shall be in charge and in their absence Joint Sub Registrar, if any, of the Amalgamated Sub Registry Office or in his absence any other Sub Registrar may be given charge of the office, which should be specially approved by the Registrar on his return to Headquarters under intimation to the Inspector General of Registration.
18. When the Sub Registrar of an Amalgamated Office is absent on leave or otherwise the Junior Superintendent and in his absence the Joint Sub Registrar will be in charge of the Office. If there is no Junior Superintendent or Joint Sub Registrar, the Head Clerk, and in his absence the senior most of the clerks with the test qualification of the Registering Section appointed under Section 12 will attend to his duties in that section. A Sub Registrar so placed in charge in the Registering section may attend to Registration under Section 30(1) of the Indian Registration Act at the direction of the Registrar.



19. (a) Only one set of register books as enjoined by section 51(4) of the Act shall be kept in an amalgamated office. Sealed covers containing Wills opened and registered, shall be copied in Book III, maintained in the Registering section. The number to be given to the deed is to be the serial number in the Registering section. Suitable entries in Account A and Book V shall be made with necessary remarks.

The remarks in the 'A' Account may be in the following form: "Will registered by opening sealed cover No ..... of the year ..... of the Registrar's Office ....."

Entries in Book V shall quote the number, year, date, volume and pages of the Book of Registration.

- (b) But separate registers and files in connection with attestation of powers of attorney, cancellation of powers of attorney and attendance at private residence by a Registrar shall be maintained in the Supervising section. In these shall be entered the details regarding powers attested, etc., by a Registrar or Sub Registrar exercising powers of Registrar while holding charge of the Registrar's Office. Powers of Attorney presented with documents registered under section 30(1) of the Indian Registration Act shall however, be filed or dealt with in the Registering section.
20. All amounts of fee received in the two sections shall be accounted for separately.
21. Receipt books and Thumb-Impression Registers shall also be maintained separately.
22. The fee under section 30(1) of the Indian Registration Act as per fee schedule (Article III of table of fees) shall also be levied if and when documents comprising properties in the Headquarters Sub District are accepted and registered by the Registrar.
23. When a Registrar is on tour or otherwise absent from headquarters, the keys of the safe holding the sealed covers, containing Wills and other connected records and the permanent advance of the office will be in the custody of the Sub Registrar of the amalgamated office and in his absence in the custody of the Sub Registrar or any other person specially authorised under rule 11(2) of the Registration Rules. Proper acknowledgements should be submitted to the Inspector General of Registration along with the reports of transfer of charge.
24. Any officer holding temporary charge of the office of the Registrar shall sign "for Registrar".

### Section 5 - Organisation of the Office of the Sub Registrar

25. Each District is sub divided into several Sub Districts, each under the jurisdiction of an officer designated as the 'Sub Registrar'. Details regarding the jurisdiction of the Sub Registrars are furnished in Appendix IV.
26. (a) The Sub Registrar will be the head of the office and shall be responsible for the general condition, control, administration and efficiency of the office. He will be responsible for remittances and up-keep of records. Documents and all papers

presented at the office, shall be received by him and he will be competent to decide whether sufficient work has been accepted for the day as contemplated by rule 2 of the Registration Rules and for its distribution. All correspondence of the office shall be through him and under his signature.

“In his absence on casual leave or otherwise, Junior Superintendent, and in his absence the Joint Sub Registrar will be in charge of the office. If there is no Junior Superintendent or Joint Sub Registrar, the Head Clerk and in his absence the senior most of the clerks shall be in charge and shall attend to the duties of the Sub Registrar.

**(b)** The person who is to be in charge of a Sub Registry Office, when Sub Registrar is absent is regulated by order 26(a). Clerks permanently exempted from passing tests will be deemed as Clerks with Tests for this purpose.

**(c)** If there is no such clerk available in the office, the Registrar will depute a qualified clerk from the nearest office.

**(d)** A clerk holding charge of an office shall style himself as ‘Sub Registrar’.

### **Joint Sub Registrar**

**27. (a)** A Joint Sub Registrar is appointed to work with the Sub Registrar in the same office either permanently or temporarily when the work of the office is too heavy for a single officer to handle. Both the officers will have concurrent jurisdiction over the whole Sub District.

**(b)** In such cases the senior of them will be designated ‘Sub Registrar’ and the Junior ‘Joint Sub Registrar’. These designations will be used as such in the endorsements on documents and in all cases where designation has to be specified. A single seal will suffice for both the officers.

**(c)** The Sub Registrar shall be responsible for the General condition and for the efficiency of the office and so the Joint Sub Registrar shall attend to only such duties of a Registering Officer as may be allotted to him by the Sub Registrar.

**(d)** When the Sub Registrar is on leave or his post is vacant, the person to whom the Sub Registrar has handed over charge will have all the powers of the Sub Registrar.

**(e)** Applications for search, copy, attendance at private residence, etc., filing of chitty records, registration of Chitties (Kuries) and all items excluding registration procedures of documents shall be within the province of the Sub Registrar. At the discretion of that officer any of these functions may be assigned to the Joint Sub Registrar who will then attend to such items. Such assignments shall invariably be in writing. All such assignments except those endorsed on applications, shall be kept in the correspondence file.

**(f)** Documents accepted by the Sub Registrar and Joint Sub Registrar shall ordinarily be certified and the entries connected therewith, in the registers attested by the concerned officers. Attestation of all accounts other than A and B Accounts, indexes and all other records that need attestation, will generally be made by the Sub Registrar.

**(g)** There shall be opened one more set of Thumb Impression Books, A accounts, B accounts and receipt book; each set to be handled by each of the above officers at the same time. Each officer will use his series of such books; but a Head Clerk or Senior Clerk when he is in charge, shall use the books of the Sub Registrar alone. The A and B returns of both the officers shall cover all days of the month and the reason of omission of entries through absence etc., on any day shall be noted therein.

**(h)** In order to ensure the correct numbering of documents and to avoid repetition of the same number, a register shall be maintained in a stitched book with two columns. The first column shall be reserved for consecutive number of documents and the second for initials of the particular Sub Registrar who appropriates a number. When either officer requires a number, he shall enter that number in the first column and initial against it in the second column. The entry for each day shall open in a red-ink entry with the last standing numbers of documents in Books 1, 2, 3 and 4 on the preceding day. The prescribed entries, certificates and attestations in the 'A' and 'B' Accounts and in the Thumb Impression Registers and Receipt Books shall be made by the officers who handle the same. Special attention shall be paid for the avoidance of repetition of the same number in both the sets of accounts.

**(i)** The 'A' and 'B' returns of the Joint Sub Registrar shall be closed each day and the totals carried over in red-ink to the A and B returns of the Sub Registrar with remarks to that effect in the remarks column, thus: "Total carried over to Sub Registrar's Account A-B" etc., as the case may be. The daily totals of the A and B returns of the Sub Registrar shall be the total of the entries made in these accounts along with the totals carried over from Joint Sub Registrar's Accounts A and B. Copies of entries in the accounts of the Joint Sub Registrar shall also accompany the account returns submitted to the Registrar every month. The digest of Accounts prepared daily shall be a digest of all the entries in both the sets of accounts maintained in an office.

**(j)** Soon after closing the A and B accounts of the Joint Sub Registrar, the collections shall be handed over to the Sub Registrar, who shall acknowledge receipt of the same in the remarks column of the respective accounts of the Joint Sub Registrar by initialling the entries with date.

**(k)** The Sub Registrar shall deal with documents of a complicated nature, documents to be impounded and documents that need a detailed enquiry.

## CHAPTER II

**Office hours and Attendance**

- 28. Office hours:—**
- (a) Office hours and attendance in general are governed by the instructions thereof, in the Manual of Office Procedure.
- (b) The Registering Officer and his establishment shall be presented in the office during the hours prescribed in the Registration Rules. An interval of three quarter of an hour between 1:15 and 2 p.m. may be set apart for tiffin. But care must be taken to avoid the simultaneous absence of the officer and staff from the office during the interval. During periods when work is especially heavy, the Sub Registrar and the establishment may attend office earlier and work later than the prescribed hour.
- 29. Attendance register:—**
- (a) A register in the common form shall be maintained in each registration office in which the officer and each subordinate excluding the sweeper shall mark his attendance as soon as he reaches the office by initialling against his name in the requisite column for the day. The hour of attendance shall also be marked when any one attends office late. Last grade servants should also mark their attendance likewise.
- (b) This register shall be retained on the table of the Junior Superintendent or Head Clerk as the case until the hour at which the work in the office is to be commenced when it shall be submitted to the Head of the Office or in his absence the person who is in charge of the office.
- 30. Holidays:—** The holidays to be observed in registration offices are the holidays notified by the Government. A list of such holidays shall be prepared and exhibited on the notice board of the office for the information of the registering public.
- 31. Late Leave:—** A Sub Registrar shall obtain the previous permission of the Registrar of the District for attending office late or for leaving it earlier. If in any case such permission cannot be obtained previously, a report shall be submitted by the next post. Similarly clerks and peons will obtain previous permission of the Head of the Office for attending office late and leaving it earlier. The permission for late attendance or early departure shall be obtained in writing.
- 32. Holiday work:—** Before closing his office on a day previous to a holiday, the Sub Registrar shall ascertain whether the state of work demands attendance on a holiday and if he finds this to be necessary, he shall arrange accordingly.
- 33. Night Watch:—** A Registration Office shall not be left unguarded at any time. The peons in registration office shall by turns perform the duty of night watch. The peon on night duty shall guard the office from the time at which it is closed till he is relieved on the following day. The particulars regarding night watch shall be entered in the attendance register. For this purpose, the columns, the particulars of

which are given hereunder, may be added in manuscript below the entry regarding attendance.

(1) *Night watch*- Against this the name and the signature of the peon shall be obtained.

(2) *Initials of Head of Office*- The officer-in-charge shall add initials in this column.

(3) *Entry of verification of night watch with date and initials*- In this column the results of verification with date and hour shall be entered.

- 34.** The Head of the Office shall by occasional Personal visits check whether the peon on duty is actually present in the office during the night. The result of such occasional check shall be noted with the time thereof in the attendance register under the initials of the officer.

## CHAPTER III

**Presentation of Documents**

- 35. *Place and time of presentation by whom to be presented:***— No Registering Officer shall receive at his residence any document for registration or for any other purpose connected therewith. Each document (except as provided for in section 31 and 38 of the Act) is to be presented with in the time stipulated in rule 2 of the Registration rules by any one person entitled to present it in the Office of the Sub Registrar who has jurisdiction to register it. The persons entitled to present the documents are described in section 32 of the Indian Registration Act. The presentation of copies of decrees and orders of courts are also governed by the section and hence they may be presented by any one person claiming under the decree or order of the court.
- 36.** Documents relating to immovable property falling under section 17(1) and (2) with the exception of copies of decrees and orders of courts and documents falling under section 18 of the Indian Registration Act shall be accepted for registration only in the office of the Sub Registrar having jurisdiction over the sub district in which the property or any portion thereof affected by the documents is situated.
- 37. *Decree or order of court- Presentation of:***— A copy of a decree or an order of a court relating to immovable property under section 29(2) of the Indian Registration Act shall be accepted for registration only in the office of the Sub Registrar in whose sub district the original decree or order was made.
- 38.** Such an office may or may not be the office of the Registering Officer in whose sub district the property or any portion thereof is situated. The fee sending memoranda and copies in respect of such registration in offices having no jurisdiction over the property has to be realised.
- A copy of decree or order of court which does not affect immovable property may be presented in the office of any Sub Registrar at which all the persons claiming under the decree or order desire it to be registered.
- 39. *Presentation where executants and claimants unanimously agree to:***— If all the parties executing and claiming under a document registrable under section 29(1) of the Indian Registration Act so indicate, they may choose any registration office at which to register the deed, if all the parties executing and claiming under the document do not agree, the document can be registered only in the office, having jurisdiction over the place in which the document was executed.
- 40. *Presentation by wrong party or in wrong office:***— If the original presentation of a document for registration is made by a wrong party or in a wrong office and if the mistake is detected before the document is admitted to registration, the presentation shall be treated as a nullity and the Registering Officer shall return the document for being re-presented by the proper person or in the proper office after making a note to that effect in the Minute Book (Chapter IV) and on the document. Such return is no bar to the acceptance of the document for registration and to its being dealt with as provided by law if the re-presentation is made within the prescribed time.

- 41. *Presentation of rectification deeds:***— For the purpose of Section 28 of the Indian Registration Act, a rectification deed shall be dealt with in the same manner as the original instruments which it rectifies, whatever be the nature of the error rectified. Accordingly the deed is registrable in any of the offices within the jurisdiction of which the property affected by the original document is situated.
- 42. *Acceptance of document in the order of presentation:***— Each document shall be taken up for registration in the order of its receipt; but documents presented by ladies, aged persons, sick persons and parties coming from a comparatively great distance shall be given preference.
- 43.** As far as possible formal acceptance of all documents should be done in the same day and when it is not possible owing to lack of time the parties might be requested to come next day. Such instances of non-acceptance of documents shall as far as possible be avoided.
- 44. *Points to be ensured before acceptance:***—
- (a) Each document shall, before acceptance, be examined to ensure:
- (i) that the party presenting it is entitled to present it as per the provision contained in the Indian Registration Act.
  - (ii) that the Registering officer has jurisdiction to accept it for registration.
  - (iii) that the certificate of wealth and other taxes as contemplated in rule 30(iii) of the registration rules if any has been produced;
  - (iv) that the declaration under the Kerala Land Reforms Act, 1969, statements under rule 3 of the Kerala Stamp (Prevention of Under-valuation of Instruments) Rules, 1968 and such other declarations or statements as may be prescribed from time to time have been produced.
  - (v) that the document is accompanied by a true copy prepared in accordance with registration (filing of True Copies) Rules, 1967.
  - (vi) that the document has been duly attested by a licensed document writer to scribe wherever such attestation is necessary.
- (b) The assessee belonging to the category mentioned in the annexure below are not liable to pay wealth-tax. Therefore no certificate of wealth-tax need be demanded from them.

#### ANNEXURE

1. A Banking Company as defined under section 5 of the Banking Companies' Act, 1949.
2. An Insurance Company within the meaning of the Insurance Act, 1938.
3. Any company solely engaged in the business of transporting goods and passengers by ships.
4. Companies registered under section 25 of the Companies Act, 1956.
5. Co-operative Societies established under the Co-operative Societies Act, 1912.
6. Industrial Finance Corporation of India.
7. Life Insurance Corporation of India.

45. The entry in documents of such material items as date, age of parties, amount of consideration, rate of interest, rent, term, survey and subdivision number, extent and so on, both in figures and in words, minimises the chances of tampering with entries in Register Books and secures the best interest of all concerned. Registering Officers shall accordingly explain to parties, the security which the system affords and by personal endeavour encourage its adoption.
46. **Details to be examined before the commencement of the process of registration:**— If the points mentioned in Order No.44 are clear, the documents shall be examined with reference to-
- (a) (i) **The date of the document:**— A Registering Officer shall compare the date of execution given in a document with the date of purchase of the stamp paper or papers on which the document or any portion of it is written in order to ensure that ante-dated documents are not admitted to registration.
- (ii) When a document consists of two or more Stamp papers purchased on different dates and the date of execution is found to be prior to the date of purchase of any one of the Stamp papers, the document shall be treated as ante-dated.
- (iii) If the date of execution is given in a document in both the English and the Indian calendars and if the date given according to the English calendar does not tally with the date as found in any of the Indian calendars, the party shall be required to reconcile the discrepancy.
- (iv) A counter-part of a document need not necessarily bear the same date as its original.
- (v) In the case of a copy of a court sale certificate the date on which the original certificate of sale is signed by the Presiding Judge should be taken as the date of execution of the document.
- (vi) The date of execution shall be checked with the date of presentation in order to ensure that the document is presented within four months from the date of execution of the document. Detailed instructions on this point is given in chapter XVIII.
- (vii) If the date borne by a document is different from its date of execution the reason for the variation shall be got incorporated in the document.
- (b) **Description of the parties and attesting witnesses viz., their signature and additions:**—
- (i) Parties and attesting witnesses shall be advised to mention their additions in documents but a document cannot be refused registration for want of such information. A deposition may be obtained, when necessary as prescribed in rule 179 of the Registration Rules.
- (ii) Every page of a document shall be attested by the signatures of all the executing parties with their names.
- (iii) Provided that such attestation by all the executing parties on each page need not be insisted upon when the number of executants in a document is unusually large. In such cases, the last page alone shall be signed by all the



executing parties, the remaining pages being attested by any one of them with a note to that effect added in the body of document.

(iv) Registering Officers should verify whether a document required to be attested under the provisions of the Law which governs its execution, has been so attested.

If it is not attested the omission shall be pointed out to the party and the party asked to supply the omission. If the party refuses to supply the omission the documents shall none the less be registered, as an omission in the attestation of a document by witness does not constitute a valid ground for refusal.

(c) (i) **Description of the property:**— When property is described in a document by a specific reference to a previously registered document (rule 24 of the Registration Rules) the Registering Officer shall satisfy himself by a reference to the previous document or entry of it in the register book, that the property or some portion of it lies in his sub district and that the description of the property as given in the previously registered document satisfies the requirements of the rules in force at the time of presentation of the subsequent document.

(ii) Where specific immovable property is pledged as security under an indemnity bond, a description sufficient for identification of the property pledged shall be required to be given in the bond. Where however, no specific immovable property is pledged, but the person who gives the indemnity binds himself in general terms to make good losses incurred, out of his movable and immovable properties, no description of such immovable property need be demanded. In copies of decrees and orders of Court, a reference to the document upon which decree or order is based, will be sufficient for purposes of section 21 of the Indian Registration Act and noting the previous registration in indexes. When such a reference is not furnished in the copy and the description given in it, does not either agree with the particulars in the Settlement Registers or Subsidiary Indexes or does not conform to the requirements of the Indian Registration Act, registration of the copy may be completed after recording a deposition under rule 179(1)(b) and (k) of the Registration Rules from the presentant in respect of the defects in the description of the property.

(iii) When a party brings for registration an agreement, a release or similar document relating to immovable property which does not contain a sufficient description of such property, he should be advised to comply with the requirements of section 21 of the Indian Registration Act and the rules in force regarding description of property; but if such a document makes reference in general terms to all property movable and immovable belonging to a family, a description of the immovable property need not be insisted on if it is not the intention to create or relinquish any right on any specific immovable property. Such a document may be registered in Book 4. e.g.:- If “K” an undivided member of a Marumakkathayam family releases his claims and rights over the Tharawad or Thavazhy properties, movable and immovable, in general terms only, such a document is registrable in Book IV and the description of property as required by section 21 of the Indian Registration Act need not be insisted upon.

(iv) Sometimes in an agreement, a sale or a mortgage, a general clause is added to the effect that, should any loss accrue to the claimant by the non-fulfilment by the executant of any of the condition specified in the document, the loss may be recovered from other movable and immovable properties of the executant. In such a case, a description of the other properties is unnecessary as the document is not intended to create any specific charge of these properties.

(v) In the case of a document relating to a portion of a field not bearing a sub number or letter, the description of that portion should be specific and should set out, as far as possible the four boundaries, in what part situated, the portion of the field such as  $\frac{1}{2}$ ,  $\frac{1}{4}$ , etc. and the name if any, it bears.

(vi) Under Rule 36(1) of the Registration Rules a Registering Officer shall examine the Settlement Registers and subsidiary indexes and check the survey and sub division numbers of documents presented for registration, before formal acceptance. Whenever the Settlement Register, subsidiary index holds a sub division number, the document connected therewith is expected to hold such a sub division. When a sub division as entered in the document finds no place in the Settlement or other registers the Registering Officer may on the basis of a statement to be filed by the party examine previous registrations and decide on the acceptability or otherwise of the document. When this is impracticable and the Registering Officer, is not satisfied with the description of the survey and sub division numbers and extent in the previous documents, he may before formal acceptance of the document, refer the matter to the Revenue or Local Authorities as the case may be.

(vii) If any portion of the whole of the property is situated within the jurisdiction of another Registry Office of this State, a reference to the Registering Officer of that office, shall on the application made by the party, proceed formal acceptance. The application thus made shall be forwarded to the Sub Registrar concerned with an endorsement to the effect that the particulars of the property referred to may be furnished. Such references shall immediately be complied with by the receiving officer. There is no objection for the presentation of such an application sufficiently early so as to obtain the details of the property before the date of presentation of the document. Such an application shall be presented by any one of the executants, claimants or by an Agent duly authorised under a power of attorney.

The application together with reply referred to in the above order shall be filed in a separate file.

(viii) Boundaries of property form an essential part in identification and they shall accordingly be described in documents in full.

(ix) The extent of each survey number or sub division number shall be shown separately in hectares, ares and sq.metres. If a portion of a plot under a survey number or sub division number within specified boundaries is affected by a document and the affected portion is not sub divided a detail as to the actual location of the portion, name, etc., sufficient for identification, shall be specified.

(d) *(i) Stamp borne by Instruments:*— It is the duty of the Registering Officer to examine every document produced before him in the performance of his functions in order to ascertain whether it is chargeable with Stamp duty (including surcharge duty if any) and if so, whether it is stamped with a stamp of the value and description required by the law in force.

*(ii)* When the document is not duly stamped, he shall impound it as prescribed in rule 38(ii) and 38(iii) of the Registration Rules subject to the instructions contained in rule 39 in the said Rules.

When an insufficiently stamped document is registered by a registering officer, he is liable to be required to make good the stamp duty lost to the Government.

*(iii)* No instrument chargeable with duty can be acted upon or registered unless it is duly stamped under the Kerala Stamp Act. A document which is not duly stamped at the time of its execution can be acted upon or registered only in the following cases:-

(a) Where a document bears the certificate prescribed by section 32(3) or section 41(1) of the Kerala Stamp Act. No instrument chargeable with duty can be acted upon or registered unless it is duly stamped under the Kerala Stamp Act or Indian Stamp Act. However, a document which is not duly stamped, at the time of its execution can be acted upon or registered, if it bears the certificate prescribed by Section 32 “or Section 41 of the Kerala Stamp Act.”

(b) When a party presents informally for registration, an insufficiently stamped document and on being informed of the deficiency of stamp duty and advised to draw up a fresh deed purchases a new stamp to cover the deficiency and copies into it the first portion of the document altering the date of execution and striking out the portion from the original sheet, the alteration has no legal effect and as the document as first drawn was insufficiently stamped, the alteration cannot render it duly stamped for the purpose of section 34 of the Kerala Stamp Act. Documents altered in this manner shall be impounded. Detailed instructions regarding impounding and adjudication of documents are given in Chapter XVI.

*(iv)* The rules framed under the Kerala Stamp Act, specify the maximum limit of stamp papers which can be sold for a single document by a Licensed Stamp Vendor. Registering Officers shall examine the stamp vendor's endorsement on each sheet of a document, chargeable with duty exceeding the limit prescribed under the Stamp Rules and report through the Registrar to the Revenue Divisional Officer having jurisdiction over the vendor, cases in which the duty is made up by the use of two or more stamp papers, each of the value of less than the maximum prescribed and sold by the same licensed vendor to the same party on the same date.

*(v)* The stamp paper used for writing documents for registration should be purchased in the name of one of the parties to the document.

(vi) Corrections or interlineations in the Stamp Vendor's endorsement will not be a bar to the registration of a document; but the neglect of the vendor should be brought to the notice of the Collector through the Registrar of the District.

(vii) The surcharge duty leviable under the Local Board's Act shall be collected in the manner specified therein and a register in Form No.3 showing such collections shall be maintained.

(viii) Any document chargeable under the Court Fees Act and assessed to the proper duty thereunder, shall be deemed to be properly stamped for the purpose of registration and need not be assessed to general stamp duty also unless it is so chargeable.

(ix) No court-fee label need be affixed in the case of original decrees or orders referred to in clause (a). But certified copies of decrees or orders by court presented for registration under section 32 of the Indian Registration Act, require the affixing of court-fee labels under the Court Fees Act.

47. ***Court-fee Stamps on documents executed in pursuance of an Order of a Court:***— When admitting to registration a document executed in pursuance of an order of a Court, the Registering Officer shall ensure that apart from the duties chargeable under the Kerala Stamp Act, the requisite court-fee labels have been affixed thereto as required by the Court Fee Act.
48. ***Cancellation of Adhesive Court-fee stamp:***— Registering Officers shall ensure that all adhesive stamps affixed to documents presented for registration are dealt with in accordance with the rules in force.
49. No documents should be registered until the Registering Officer has thoroughly satisfied himself that it is complete in all particulars as described above, in Orders 44 and 46 to 48.
50. When the scrutiny as said above is over, the Sub Registrar will proceed with the examination of parties and witnesses as described in the next Chapter.

## CHAPTER IV

**Examination of parties and witnesses**

51. **Examination of parties before registration, by Registering Officer:**— In examining a person under the provisions of the Indian Registration Act, it is not absolutely necessary to put him on oath. Section 63 of the Act leaves the matter to the discretion of the Registering Officer. Whether the administration of an oath is necessary or not in any case will depend upon the circumstances connected with it.
52. The examination of a party by a Registering Officer is, under section 34 of the Indian Registration Act, confined to matters pertaining to-
- (1) the identity of parties and
  - (2) the authority of those who appear as representatives, assigns, or agents and
  - (3) the fact of execution.
- It is not within the province of a Registering Officer to compel a party to make a statement regarding the receipt of consideration although he is bound to record a voluntary admission of receipt of consideration.
53. Unless the Registering Officer is personally acquainted with the party appearing before him, he is bound to satisfy himself that he is the person whom he (the party) represents himself to be.
54. **Representatives:**— When the executant of a document is dead his representative or assigns should, under section 35(1)(c) of the Indian Registration Act, appear personally before the Registering Officer and admit execution. There is no provision in the Act authorising an agent to appear in such cases. Where a representative is a minor his guardian should appear on his behalf.
55. The “personal law” referred to in the definition of “minor” in section 2(8) of the Indian Registration Act is the law prescribed in the Indian Majority Act, 1875, and the age at which minority ceases shall be determined with reference to the provisions of section 3 of the Act. Accordingly the period of minority of a person domiciled in India shall be held to terminate on the completion of the eighteenth year, except in the case of a minor for whom a guardian has been appointed by a court of justice or the management of whose property has been assumed by the court of wards, who attains majority on the completion of the twenty-first year.
56. **Minors not entitled to presentation of documents:**— Documents executed in favour of minors cannot be presented by them for registration. No person who has not attained majority is competent to act on his own behalf. In all such cases, presentation should be made by the minor’s guardian or representative.
57. In the case of a document executed by a duly constituted attorney and presented by him for registration he should sign as the attorney of so and so and not as if he were the Principal.

58. A document executed by a Principal in favour of the agent can be presented by the agent in his personal capacity and its execution admitted in his representative capacity, whatever may be the legal effects of such a registration.
59. In the case of contracts entered by a firm it is sufficient, in order bind the whole firm, for one of the partners to execute the document by affixing the usual title of firm. There is, therefore, no objection to this partner's affixing the name of the firm in the admission endorsement. The addition to be made by the Registering Officer, under section 58(i)(a) of the Indian Registration Act shall be worded as follows:  
 "Represented by ..... one of the partners of the firm  
 ....."
60. So far as a registered Company is concerned, any Director can sign and admit execution of the document.
61. ***Pardhanashin and Gosha Ladies:—***  
 (a) A Registering Officer or a Commissioner appointed by him has no power to demand in the case of a pardhanashin lady the withdrawal of the pardah.  
 (b) A Registering Officer or the Commissioner appointed by him must be satisfied that the pardah lady whose evidence is required is the person actually examined and must himself hear what she says. He shall take care to obtain the admission of execution from the executant's own lips. The mere statement of relatives or other persons accompanying her is not sufficient. The term of the document shall be explained to the executant and if, while admitting execution, she objects to any of the terms, such objections shall be recorded in the deposition book by the Sub Registrar or in a separate sheet by a Commissioner.
62. A gosha lady may be permitted to present a document for registration or to receive or make payment of consideration money or to receive or deliver goods through a hammannee. The Registering Officer may satisfy himself as to the fact of presentation by the lady or the receipt or payment of consideration money or the receipt or delivery of goods by the lady by putting questions and hearing her replies although he may not see her face. He shall invariably record a deposition from the gosha lady in regard to these matters as well as admission of execution.
63. ***Identity of parties:—*** The identity of a party appearing before a Registering Officer shall if practicable, be proved by the testimony of persons who are personally known to the Registering Officer himself or, when this testimony is not procurable, by the most trustworthy evidence available. The attesting witnesses to a document need not necessarily be examined in connection with identification, since what is ordinarily required, is not proof of execution but proof of identity. Moreover, it may often be inconvenient for such witnesses to proceed to the registration office from their villages and they may, after all, be stranger or obscure persons with whose testimony the Registering Officer may not be satisfied.
64. (a) Registering Officers shall guard against false personation in the registration of a document. In a village there are sometimes several persons bearing the same name or a person has several aliases. Whenever therefore an identifying witness is examined, the enquiry shall be sufficiently specific to admit of the detection of a

false personation and of fixing the responsibility on a witness who may mislead a Registering Officer.

**(b)** Each identifying witness shall be asked to state the name and address of the person to be identified and also whether he is the person referred to in the document as the claimant or executant as the case may be.

**(c)** It shall also be ascertained how the knowledge of the witness was acquired and for what period the witness has been acquainted with the party. An acquaintance formed in the registration office, while registration proceedings are going on, is not a sufficient qualification for an identifying witness. The testimony of an identifying witness shall be rejected if he has had no personal acquaintance but has merely been told the party's names for the purpose of Identification.

**(d)** In case where a witness bears a relationship to the party, the fact shall also be ascertained and noted in the addition of the witness.

**(e)** Care shall be taken that identification does not become a trade among the document writers and scribes menials and hangers on of an office. The testimony of persons who make such a trade shall not be accepted.

**(f)** When an identifying witness is also an attesting witness to a document, the Registering Officer shall satisfy himself that the signature of the identifying witness corresponds with the signature in the document.

**(g) *Thumb impression of witnesses- When to be taken:***— Ordinarily impressions from witnesses need not be insisted upon. Only if the Registering Officer has any doubt as regards the identity of a witness or in cases the witness is not literate, when his thumb impression may be taken. *eg:-* Where a female is the executant in a deed and her illiterate husband appears as identifying witness, it is desirable that his impression is taken.

**NOTE:**— Two witnesses shall generally be examined for identification of parties to a document.

**(h)** Registrars shall during their inspection of Sub-Offices note, whether the instructions in this standing order are followed by Sub Registrars and bring to the notice of the Inspector-General any cases of infringement.

- 65.** Special care shall be taken in the identification of pardhanashin ladies who should ordinarily be identified by relatives with whom the lady does not observe gosha. If relatives are not available, identification may be made by servants or other persons who are admitted behind the purdah. In either case their deposition shall also be recorded.

The service of the identifying witness shall also be utilised to help the hammamnee in obtaining the thumb impression of a gosha executant.

- 66. *Admission of execution:***—

**(a)** The admission required under section 35 of the Indian Registration Act is admission of the execution of the document. It is not enough for the person who is the ostensible executant to admit his signature on a paper on which the document is ultimately engrossed after his signature. The identity of the paper on which the signature occurs is not sufficient. If a man says that he signed a blank paper on the representation, that it was required for presenting a petition or if a man signs a

completed document on the representation that his signature or thumb impression is required as the attesting witness, that admission of the signature or thumb impression in those circumstances cannot be construed to be an admission of the execution of the document. Far from its being an admission of execution, it is a clear and unambiguous denial of the execution of the document. Where, however, a person though admitting his signature to a particular document viz., a sale deed, a mortgage deed or a lease deed, etc., presented for registration, states that he signed it as he was put in such fear of bodily injury to himself or to those in whom he is interested as to bring the case within the offence of extortion as defined in the Indian Penal Code, the Registering Officer is bound to register for the reasons that the execution of the document is admitted by the executant and that the objection which affects the validity of the document as between the parties thereto cannot be enquired into and adjudicated upon by the Registering Officer.

**(b) Admission of signature alone without knowledge of contents is no admission of execution:—** Where a person admits his signature to a document but states that the date of document i.e., the date from which the transaction evidenced by it, is to take effect or some other material portion contained therein, has since its execution, been altered fraudulently, the Registering Officer shall refuse to register, because the alleged executant denies execution of the fraudulently altered document and the admission of the signature is only an admission of the execution of the original or unaltered document to which such signature was affixed.

**(c)** Where a person admits his signature to a document with knowledge of its contents at the time of execution, but is unwilling to correct the date of the document which is obviously incorrect, being anterior to the date of purchase of the stamp paper on which it is written as shown by the endorsement of the stamp vendor, the document shall be refused registration for the reason that it is on its face false and no admission of execution would justify the registration.

**(d) The dumb and mute, not prevented from execution:—** The dumb and the mute are not incapacitated to admit execution provided they are able to know the consequences of their act.

**(e)** A Registering Officer cannot register a document of which execution is not admitted by the alleged executant. Execution of a document consists in signing, a document written out and read over and understood and does not consist of merely signing a name upon a blank sheet of paper. To be executed a document must be in existence; where there is no document in existence, there cannot be execution. Where an executant clearly says that he signed on a blank paper and that the document which he had authorised is not the document which he contemplated, the statement is a denial, and not an admission of execution.

**(f)** Execution does not mean mere signing. It would mean the conscious act of entering one's signature after understanding the purport for which the signature is endorsed. Accordingly, only admission of such signatures as are entered after knowing the contents of an instrument has the force of admission of execution. When an executant swears that he did not know the contents of the deed when he signed it or that he signed it taking it to be an entirely different transaction due to fraud practised on him, mere statement that the signature is his cannot be accepted as admission of execution. On the other hand, it would tantamount to a clear and



unambiguous denial of execution as in the case of signature entered on blank paper referred to in order (e) above. Registration has to be refused in all such cases after obtaining sworn depositions from the parties concerned

(g) When a document contains a seal alone instead of signature, there is no execution and a document of the category cannot be registered. There is however no objection to affix a seal along with the signature of the executant

67. The responsibility for determining whether the executant of a document is in a fit state of mind rests primarily with the Registering Officer; no deposition need be insisted for this. But there is no objection to a Registering Officer recording the deposition of either the party or anyone else in connection with this, if he considers such a step necessary.
68. When the Registrar on appeal made to him by parties, orders the registration of the document, the Sub Registrar need not record the admission of execution by the executants.
69. *Statements of witnesses to be recorded, when execution is denied:—*
- (a) When the execution of a document is denied, the statements of witnesses who are examined to prove the identity of the alleged executant shall be recorded in the deposition book, the signatures and thumb impressions of the witnesses being obtained at the foot of the depositions. Their signatures need not be taken on the back of the documents.
- (b) The Deposition Book referred to in Rule 179(ii) of the Registration Rules, shall be bound books applied on indent by the superintendents of Government Presses.
- (c) Before a deposition book is brought into use, the pages of the deposition book shall be numbered throughout in ink and the number of pages contained in the book shall be certified on the fly leaf by the registering officer.
70. In cases of false personation, depositions should be taken down separately so as to form a portion of record. They need not be copied in the deposition book.
71. Copies of depositions recorded by Registering Officers in their deposition books may be granted to connected parties applying for them. The application for the copy of a deposition will be treated as an application for the Copy of a miscellaneous record.
72. The question whether an attesting witness is a consenting party is one of the facts to be decided according to the circumstances of each case. If a document recites that the consent of persons other than those who have signed as executants has been obtained to the transaction entered into by the persons calling, themselves the executants, and such persons have signed the documents, in token of their assent to the transaction, the persons who have given the consent should also be regarded as executants and their admission of execution recorded on the document. Accordingly unless it is clear from the document itself, that the witness has signed it in token of his assent to the transaction, a Registering Officer need not examine an attesting witness as an executant.

**73. Thumb impressions:—**

- (a) The system of obtaining thumb impressions for the identification of parties shall be worked with tact so as not to cause unnecessary offence or annoyance to the persons whose thumb impressions are taken.
- (b) Two slabs shall be used in each office. A duster cloth shall be made available to parties for wiping off the ink from the thumb and in important stations to which respectable parties are likely to resort, turpentine and soap shall also be kept handy.
- (c) The impressions obtained should be clear and distinct. Rolled impressions are always preferable, but in the case of women, plain impressions may be accepted.
- (d) Every party of whose identity the Registering Officer has to satisfy himself and who is not personally known to him may be required to affix his thumb impression against his signature in the endorsement on the document and in the Register of Thumb Impressions. When an executant admits execution of a document but refuses to endorse the same by declining to sign and/or affix his impression in the endorsement, the Registering Officer shall nevertheless register the document, a note of such refusal being endorsed in the document at the same time. In such cases wherever possible the Registering Officer should record a deposition from the executant, in the deposition book, and obtain his signature below such deposition. Depositions of two witnesses shall invariably be recorded regarding the admission of execution of the document by the executant and his refusal to sign and/or affix his thumb impressions in the endorsement, irrespective of whether a deposition from the executant is recorded or not.
74. Even in cases in which an impression is not taken the signature of the party, shall be obtained in the Thumb Impression Register and initialled by the Sub Registrar, the absence of impression being explained with reason therefore.
75. The impressions shall be taken under the personal supervision and in the immediate presence of the Registering Officer himself who should be able to depose to that effect before a Court when necessary. The duty shall not be delegated.
76. In the Thumb Impression Register the impression shall be obtained as far as possible in the serial order of the document numbers.
77. In the column provided for the purpose, the number, book and year of the document in connection with which an impression is taken, shall be entered by the Registering Officer. In the case of an attested power of attorney, the number assigned to the power attested and the date of execution or attestation shall be entered.
78. Where the depositor of a sealed cover, is not known personally to the Registrar, his thumb impression shall be taken both on the sealed cover and in the thumb impression register; where he is personally known, a note to that effect shall be entered.
79. (a) Generally, the impression of the bulb of the left thumb should be taken as required in Rule 73(1) of the Registration Rules. The digit and the hand from which an impression is obtained shall be specified both in the Thumb Impression

Register and the endorsement of the document whenever an impression other than that of the left thumb is taken. Such entries should be copied so in the Register Books also.

**(b)** In cases where the left thumb impression is taken it is enough that the word “Impression” (വീരൽപ്പതിപ്പ്) alone is entered in the Register Book.

**(c)** In cases where no impression is taken for reasons other than the fact that the Registering Officer knows the party personally, it shall be indicated by writing words “Impression Nil” (വീരൽപ്പതിപ്പില്ല) in the endorsement close after the signature of the party.

**(d)** In cases where parties are known to the Registering Officer, the fact should be noted in the endorsement appropriately.

**(e)** In cases where the thumb impressions have been dispensed with under Rule 75 or for any other reasons, a note regarding the circumstances under which the impressions were not obtained should be entered in the last column of the Thumb impression Register.

**(f) *Thumb impression not to be scored:***— Thumb impression once taken in the register shall not be scored even if it be faint or defaced but a second or third impression may be taken in the subsequent columns so noted with the reasons for obtaining them and all such impressions shall be bracketed together as directed in rule 74(iii) of the Registration Rules.

**(g)** When in the course of registration or refusal an impression contemplated in Rule 73(i) in respect of any document or in respect of any executants has either not been obtained or has been obtained in any place other than that which it would ordinarily occupy in accordance with its serial order, a reference to that document or executant and to the reason for not obtaining the impression, or to the place where it has been obtained elsewhere, shall be indicated briefly, as shown in the margin, in the Thumb Impression Register in the appropriate place when the reference is only to one or more of several executants of documents, the name of the executant or executants shall be noted.

4321	S. Ramankutty, Personally known.
4322	K. Krishnankutty, for impression <i>see</i> page ..... of Thumb Impression Register Vol .....
4323	C. Govindan, For impression <i>see</i> Page ..... of this volume.
4324	A. Abdulla, Collector of ....., exempted from personal appearance under section 88(1)(a) of the Registration Act.
4325	Person suffering from Leprosy.

- 80.** When an executant of a document refused to affix his signature in the endorsement, his thumb impression should be obtained if not objected to by him, against his signature in the deposition book containing his statement regarding his refusal to affix his signature. If he refuses that also, depositions shall be recorded from two witnesses to that effect.

81. When there are two or more executants to a document, the thumb impressions and signatures obtained from each shall be numbered with Arabic Numerals, in brackets thus “(1), (2)”, in the endorsement on the back of the document, to corresponding numbers being entered against the impressions and signatures in the register irrespective of the fact whether thumb impressions are taken or not.
82. Spare impression sheets supplied (Form No.13) shall be used for taking the record of impressions at a private residence. The “A” portion of the sheet holding a copy of the impressions shall be forwarded to the Registrar along with the report of attendance at private residence and the “B” portion pasted to the appropriate place in the impression register. The “A” portion is treated as part of the report for purposes of Rule 81.
83. For the purpose of adding the certificate in the Thumb Impression Register, with reference to rule 79 of the Registration Rules, each column in the Thumb Impression Register should be serially numbered.
84. When impressions or signatures of parties appearing on the same page in the Thumb Impression Register, has been obtained by more than one officer, the impressions or signatures shall be serially numbered in Roman figures and each officer shall enter a separate certificate as required in rule 79 of the Registration Rules in the following form:-
- “Impressions (I to V) on this page have been affixed in my presence and under my supervision by the persons whose names are entered against them.”
- Date ..... Name and Signature of the Registering Officer.
85. The completed volumes of Thumb Impression Registers shall be maintained in locked record receptacles containing the completed register volumes. The current columns shall be kept either in the iron safe or in the cash box of the Registering Officer.
86. When a current volume of a Thumb Impression Register is forwarded to a court with reference to rule 176 of the Registration Rules a note signed and dated by the Registering Officer shall be made under the last impression as follows:-
- “Sent to ..... Court on .....”
- and another register shall be brought into use in its place. A register only partially filled shall, on return by the court, be used for taking impressions subsequent to the closing of the register then current with a note signed and dated by the Registering Officer showing where the intervening impressions are to be found.

**Registration of documents executed by government officers  
or certain public functionaries.**

87. *Exemptions under section 88 of the Indian Registration Act and other enactments:—*
- (a) Section 88(1) of the Indian Registration Act lays down that it shall not be necessary for any officer of Government or any of the public functionaries specified therein to appear in person or by agent at any registration office in

connection with any proceedings connected with the registration of any instrument executed by him or in his favour, in his official capacity or to sign as provided in section 58 of the Act. Section 88(3) of the Indian Registration Act requires that the Registering Officer to whom any such instrument is presented for registration under this section, may if he thinks fit refer to such officer or functionary for information respecting the same and on being satisfied of the execution thereof, shall register the instrument.

**(b) Presentation:**— Rule 29(ii) of the Kerala Registration Rules lays down that a document referred to in section 88(2) of the Indian Registration Act may be presented for registration through a messenger with a covering letter signed by the Government Officer or other person concerned referred to in section 88(1) of the Act. It is not deemed necessary to insist on such letters being signed by such officers or functionaries themselves as in the case of powers of attorney. It is enough if such letters are signed by their deputies or Assistants who are authorised to sign “for” or “By Order” of such officers or functionaries by standing Government Orders of delegation in all official correspondence. Accordingly, documents referred to in section 88(2) of the Indian Registration Act presented by messengers with such covering letters shall be accepted for registration as if the letters were signed by the officers themselves.

**(c) Admission of execution:**— A reference to the Government Officer or other functionary is not obligatory in every case, but the Registering Officer shall satisfy himself of the fact of execution of the document by the person exempted from personal appearance in the most convenient way possible. For e.g. when a document is forwarded by a Government Officer with a covering letter signed by himself [Rule 29(ii) of the Registration Rules] stating that it was executed by himself and requesting for its registration, the letter should ordinarily suffice. Again the Registering Officer may be acquainted with the signature of the officer and no reference is then necessary. If a deed is presented by a private individual who is party to the document, a brief enquiry from him or his identifying witnesses may be sufficient. It is only when the Registering Officer has no such means of satisfying himself that he need make a reference to the officer concerned. The specimen signature of the officer or functionary need not in any case be insisted upon, for the above purpose. In cases of doubt, the fact of execution could be satisfied for purposes of section 88(3) of the Indian Registration Act only on the admissions of the officer to that effect on a subsequent reference to him by the Registering Officer and not from the specimen signature. If the officer does not acknowledge the execution, the registration of the document shall be refused but no so, if the specimen signature is not furnished. There should be no tendency on the part of the Registering Officer to tax such officers or functionaries by unnecessary correspondence and to delay the registration of such deeds on some grounds or other.

**(d)** Covering letters with which the documents are presented for registration by messengers shall not be treated as powers of attorney for statistical purposes, though they may be filed and numbers assigned to, as powers attested and filed, in the file of powers of attorney.

- 88.** An Officer of Government does not cease to be an ‘Officer of Government’ for the purposes of section 88 of the Indian Registration Act and so lose the right of

exemption from attendance personally or by an agent, at a Registration Office on being appointed Ex-Officio President of a Municipality or of a Local Board, notwithstanding that the Registration Proceedings are in connection with an instrument executed by him in his capacity as President.

## CHAPTER V

**Endorsements and Certificates**

- 89. Procedure on completion of examination before registration:—** After the examination of parties as indicated in the previous Chapter is over the appropriate fee with reference to the table of fees, shall be realised, from the presentant and accounted for and receipt issued before writing up endorsements. Details regarding the issue of receipts, accounting, procedure and matters connected with the valuation and classification of documents are described in Chapters (XI, XIV, X and IX). While writing up the endorsements, the following instructions shall be borne in mind.
- 90. Separate endorsement for presentation and admission of execution:—** Every endorsement on a document shall be dated and signed by the Registering Officer as soon as it is made; but when more than one endorsement is made on a document at the same time it will suffice if he affixes his signature and date once for all at the foot of the last such endorsement. Notwithstanding the above, the Registering Officer shall sign separately the endorsements relating to presentation and admission of execution even when they are made at the same time.
- 91. (a)** When a document is kept pending admission of execution by some or all of the executants, or when it is impounded or in any other case, when a document is not assigned a regular serial number, the pending number given to it such as P/1, P/2, P/3, etc. as the case may be, shall be noted in the sheet endorsement in place of the document number. As soon as the document is assigned a number and admitted to registration, that number also shall be shown in the sheet endorsement under the pending number.
- (b)** The total of all fees realised such as registration fee, memoranda fee, extra copying fee, fee for endorsement under section 58(i)(c), etc. should be shown in the endorsement of presentation under section 52 of the Indian Registration Act.
- (c)** The entry of fees in the presentation endorsement shall be the total of all fees in respect of the registration of a document realised at the time of writing such endorsement. It shall include every fee ledgered in Account A and shall not include fees for attendance, commission etc. for which separate application are presented and separate receipts granted or fees to be ledgered in account C. Subsequent collections if any, made before the completion of the registration of a document, such as fees realised at a private residence for endorsements under section 58(i)(c) of the Indian Registration Act shall be shown in the endorsement in continuation of the words “Execution admitted by”, recorded at the residence.
- (d)** The name of the Registering Officer shall be entered wherever he signs an endorsement or a certificate.
- (e)** When a document is presented and execution admitted by an executant his addition need be entered only in the endorsement of admission of execution.
- (f)** When presentation and admission are recorded at different places and at different times, the station at which the endorsements are made by Registering Officer shall invariably be entered in succession to the entry of the date.

- (g) In order to claim exemption from registration fee and stamp duty under concessions to a Co-operative Society, the name and register number of the society as also those of the members who are parties to the document, shall be described in endorsements in conformity with such particulars as are required to be embodied in the documents concerned.
- (h) When endorsements are recorded on the basis of power of attorney the dates of attestation as also the official designation and station of the attesting officer shall be specified.
- (i) When admission is recorded in one's own and representative capacities, separate endorsements shall be made for each such capacity.
- (j) When an agent presents and admits a document, the representative capacity alone shall be entered in the presentation portion, the details of the power etc. being entered in the admission endorsement.
- (k) The endorsement prescribed by rule 109(1) of the Registration Rules shall be made on the back of the last sheet of the duplicate or triplicate of a document at the time when the original and its duplicate or triplicate are presented for registration and shall be close with the name, designation and signature of the Registering Officer with date. The notes prescribed by rule 109(1) of the Registration Rules shall be entered under the registration certificate.
92. When a Commission is issued for the examination of an executant the form of endorsement shall be in the form prescribed therefore, in rules 54(ii) of the Registration Rules.
93. *Signature and addition of parties and witnesses:—*
- (a) A person who is able to write shall be required to write his name also before any mark he may affix as signature.
- (b) A person who at the time of the execution of a document was able to sign his name but who, owing to any special cause, is no longer able to do so, or a person who at the time of the execution of a document, was not able to sign his name but has since become able to do so, may be allowed to affix his mark or signature as the case may be; but a deposition explaining the reason for the change shall be taken and a reference to the same noted in the endorsement on the document.
94. (a) The surname so far adopted by a person shall be recognised as a sufficient 'addition'. When the guardian of a minor, idiot or lunatic, either presents or admits execution of a document, the relationship of the guardian with the minor, idiot or lunatic if any, shall also be described.
- (b) In the case of a document executed by more persons than one bearing the same name, surname and age of each such executant shall be entered for purposes of identification in the endorsement on the document.
95. When a Registrar condones a delay under section 25 or under the proviso to section 34(1) of the Indian Registration Act and directs the acceptance of the document or its registration, the Sub Registrar shall, on receipt of the orders from the Registrar to that effect, make the following endorsement above the certificate of registration and close it with his dated signature.



“Acceptance of this document for registration/admission to registration, was directed by the Registrar of ..... in his order No ..... dated ..... on payment of a fine of Rs ..... for a delay of ..... days under section 25/section 34 of the Indian Registration Act 1908”.

Date.

Signature of the Sub Registrar

**96. Identification:**— When a document is presented for registration by a person other than an executant, the identification of the presentant shall be endorsed as hereunder—

(a) Where the presentant is identified by the executant, the Registering Officer shall add a note after the presentant’s signature in the presentation endorsement, thus “identified by the (first, second etc.) executant”.

(b) Where the presentant is identified by persons other than an executant, the signature and addition of the identifying witnesses shall be obtained below the presentation endorsement; but when the same witness identify the executant also, in cases when the admission of execution immediately follows presentation, the signature and addition of the identifying witnesses shall be obtained below the endorsement of admission of execution, the expression “the presentant and the executant have been” being prefixed to the endorsement “identified by”. Where the presentant is identified by the executant or one of the executants, it is enough to examine only one such executant. In all other cases, two identifying witnesses should be examined.

**97.** Whenever the Registering Officer exercises the discretion vested in him under section 35(2) of the Indian Registration Act, and records a deposition from any one present before him the signature and addition of every person so examined shall invariably be obtained as enjoined by section 58(1)(b) of the Indian Registration Act to the endorsement on every document admitted to registration, under the entry ‘witness examined’. If such person happens to be an identifying witness also, his signature with addition shall be obtained both under the entry, ‘Identified by’ and under “witness examined”.

**98.** Where a Hammamnee (female attendant) employed for the examination of a gosha lady knows the person examined and identifies her, the signature of the hammamnee shall be obtained twice in the endorsement, viz. under ‘identified by’ as well as under ‘witness examined’. Where the hammamnee does not know the person examined, her signature shall be taken only under ‘witness examined’.

**99.** Where a document executed by or in favour of a Government Officer under section 88(2), is exempted from appearance under section 88(1) of the Indian Registration Act, is forwarded with a covering letter through a messenger under rule 29(11) of the Registration Rules the identity of each messenger need not be required to be proved by the evidence of witnesses but he may be required to affix his finger impression against his signature or mark in the presentation endorsement, his designation also being entered underneath the signature. The presentation endorsement in such a case shall be in the following form:-

“Presented in the Office of the Sub Registrar of ..... and fee of Rs ..... paid at (here give the hour and minute) ..... a.m./p.m. on the ..... with letter No ..... dated ..... of ..... by .....”

**100.** Section 88(3) of the Indian Registration Act lays down that in the case of an instrument executed by an officer of Government or any of the public functionaries mentioned in clause (1) of that section, the Registering Officer may, if he thinks fit, refer to such officer or functionary or to any Secretary to Government for information respecting the same and on being satisfied of the execution thereof, shall register the instrument. In such cases the Registering Officer shall, after satisfying himself of the execution of the instrument, make an endorsement in the following form instead of the endorsement “Execution” admitted by:

“I have satisfied myself as to the execution of the instrument by (name and designation), who is exempted from personal appearance under section 88(1) of the Indian Registration Act”. This endorsement shall be added whatever procedure may be adopted by the Registering Officer, under section 88(3) of the Indian Registration Act to satisfy himself of the execution of the instrument.

**101. *Payment of consideration:***— In case, where the consideration money or delivery of the goods is stated in a document to be payable before the Registering Officer, and is not so paid, a brief note of the explanation furnished by the parties for such non-payment shall be endorsed by the Registering Officer, on the document itself and the signature of the parties obtained to the note so made.

**102.** Where the amount of consideration or the delivery of goods mentioned in a document is paid or delivered before the Registering Officer, he should verify the amount or the goods actually paid or delivered before him by one party to another so as to satisfy himself of the truth of his endorsement on the document. In cases of payment of money the details of coins, cheques or currency notes, as the case may be, shall be specified, if so desired by the parties.

**103.** When there are many executants to a document, it will suffice if the signature of the chief of them, who has been permitted to receive the money from the payer, is obtained to the endorsement of payment of consideration. The presence and the verbal consent of other executants at the time of payment shall also be noted in the endorsement.

**104.** Where a gosha lady receives or makes payment of consideration money or receives or delivers goods through a hammamnee in the presence of the Registering Officer, the endorsement of payment or Bf delivery prescribed in Appendix V to the Registration Rules, shall mention the fact that the consideration money was paid or the goods were delivered through the hammamnee.

**105. *Endorsement of refusal and return:***— The endorsement ‘registration refused’ prescribed by section 71 of the Indian Registration Act, shall bear the number assigned to the order of refusal under Manual Order 443(b) and shall be made only after all the executants who are expected to appear before the Registering Officer,

either voluntarily or compulsorily, have appeared and been examined (unless their non-appearance is treated as denial of execution).

- 106. (a)** Documents that are not admitted to registration and kept pending for the appearance of the executants, their representatives or assigns or agents can alone be returned unregistered at the request of the presentant. Before so returning a document, the Registering Officer has to ascertain and satisfy that there is no request to proceed with the registration of the document by any person entitled to present the documents. Accordingly, when the presentant of such a document applies for the return of the document unregistered, the Registering Officer shall send notice by registered post acknowledgement due, to all the other parties who are entitled to present it for registration fixing a reasonable date, calling upon them to state whether they desire that the registration of the document should be proceeded with or it. Should any of them express the desire that registration of the document should be proceed with the Registering Officer shall proceed with the registration of the document as laid down in the relevant sections of the Indian Registration Act. If no reply is received from the parties to whom the notices were issued, or if all of them desire to withdraw the document from registration, the Registering Officer shall comply with the request of the presentant and return the document to him endorsed "Returned unregistered at the request of the party".
- (b)** The expenses for the issue of the notice by registered post acknowledgement due shall be levied from the person who presents the petition for the return of the document registered.

## CHAPTER VI

**Entries in Register Books**

## GENERAL

**107. Transcription to be taken up as soon as documents are admitted to registration:—**

(a) Documents admitted to registration shall be taken up for transcription of endorsements and comparison with the least possible delay and in the order of the admission to registration.

(b) Ordinarily, documents shall be made ready for return after registration on the day of admission to registration, and in any case, within two working days from the date of admission.

(c) Except in unavoidable circumstances, no document admitted to registration on or before the close of a calendar year, shall be allowed to remain uncopied at the close of the calendar year.

(d) When due to unavoidable circumstances, a document pending transcription in a previous year is registered in a subsequent year, the original entry in the A Account shall be reproduced on the date of registration in the current A Account and the next available number of the book of registration in that year shall be assigned to it. In such cases the registration certificate will run as follows:-

“No.120/1960 registered as No.1/1961 of Book I of  
volume 500 Pages 1 to 6 etc.”

(e) No special arrangement is necessary to transcribe an unusually lengthy document. The general principle to be followed is that as far as practicable, a document should be transcribed in one and the same register volume. But when an unusually lengthy document is registered and it is found that it cannot be copied in any of the current volumes in use, a fresh volume may be taken up and the document commenced in that. If it is found to cover more than one volume, it may be continued in another fresh volume. When such volumes are brought into use, the volume number shall be duly assigned to them in the general series of the book to which, they relate. The partially utilized volume may be taken up for copying ordinary documents when one of the current volumes is used up. The certificate of registration shall in the latter case refer to the numbers of all the volumes with the respective pages covered by the entry. The entries in the different volumes shall be connected by cross references.

**108. (a)** When a document is presented for registration, the Registering Officer shall see whether it is accompanied by the copy required to be presented under Rule 4 of the Kerala Registration (Filing of true copies) Rules, 1967 and whether the copy prima facie satisfies the requirements of the said rules.

(b) It should be examined whether the copies are written properly in a clear and legible hand in long lasting black or blue-black ink.

(c) The preliminary scrutiny of the copy should be completed quickly so that parties may not be detained in the office unnecessarily.

(d) Copies of documents presented under the Filing Rules, shall be filed in lockable file boards. Three sets of lockable file boards are supplied to each office for filing copies relating to Books 1, 3 and 4.

- (i) Register Book I shall be in volumes of 500 pages, Book 3 in volumes of 120 pages, and Book 4 in volumes of 120 pages.
- (ii) Each register book shall continue in use until the maximum of pages prescribed is reached. A fresh volume need not be opened at the commencement of each calendar year.
- (iii) The number of pages prescribed for each class of register book SHALL ON NO account, be exceeded or reduced. If a register book contains more or less pages than that prescribed for that category, it shall be construed that the Registering Officer has been highly negligent in the discharge of his duties and he shall be dealt with under the Kerala Civil Services (Classification, Control and Appeal) Rules, 1960.

(e) A register volume shall be opened as soon as the first copy of the document to be filed in it is ready for filing and it shall be prefaced with a title page in which shall be entered the following particulars.

- (i) The number and description of the book;
- (ii) Name of the officer;
- (iii) Volume number;
- (iv) Number and year of the first copy of document in the volume and the date of filing.

These entries in the title page should be attested by the Registering Officer with his signature and a date immediately after the volume is opened.

**109. *Quality and colour of ink to be used:***— Except as provided for in Rule 149(ii) of the Registration Rules no ink other than the blue black ink supplied for the purpose, shall be used in register books and indexes and in endorsements, certificates and other entries made on documents by a Registering Officer.

**110.** Copyists shall write with a distinct pressure on the pen.

**111.** If a page or pages are left blank by oversight in any part of a register volume, the page or pages shall be ruled across diagonally and a certificate, stating that the omission is accidental shall be entered on such page or pages, and attested with date by the Sub Registrar.

**112. *Numbering of Volumes:***—

(a) The volumes of register books shall be numbered consecutively, a separate series being assigned for each class of registers. The serial numbers shall not terminate with the year, but shall be carried on perpetually. The document numbers of each class of books shall, however terminate at the year end.

(b) The file books and additional volumes referred to in Registration Rule 16 of the Registration Rules shall; as they are brought into use, have a number assigned to them in the general series of the books to which they relate.

(c) The opening of an additional file-book at the time when a file book I is already running shall be with the due sanction of the Registrar. But a Sub Registry Office

amalgamated with a Registrar Office shall maintain an additional file book I, for filing copies of documents received along with memoranda.

(d) The file book of copies and translations (Registration Rule 17) forms a separate class and shall be given a special set of serial numbers. The copies and translations referred to above shall be in Form No.25 and the endorsement column of the form shall hold a true copy of the endorsement and certificates of such registered documents.

**113. *Transcription:*—**

(a) The number of the document shall be shown in the Register Book in the middle of the column reserved for the entry of the document and on a separate line immediately above the commencement of the entry and no portion of the line upon which the number is entered shall be utilized for the entry of the documents or the endorsements thereon.

(b) Immediately after a document has been admitted to registration, it shall be passed on to the Junior Superintendent or Head Clerk (as the case may be) and he shall immediately enter the number assigned to the document together with the other details in the Register of preparation and examination of Indexes. The violation of this has to be construed as serious.

(c) The number and year of the document shall be entered at the top of the copy in the space provided and when the copy is continued in more than one page the word “continued” enclosed in brackets, shall be noted on the second and subsequent pages.

**114. (a)** The stamp vendor’s endorsement and any certificate relating to the stamp shall be copied at the end of the entry of the document in continuation of the signature of the executants and witnesses. The value of each stamp paper and endorsement thereon, if any shall be serially copied in the Register Book in succession to the copy of the last entry of name and signature of parties and it shall run “seal” with date thereof (in case where there a seal at the bottom of the stamp paper). Then shall follow the vendor’s number and date thus- No. .... 2<sup>nd</sup> January 1952. The other endorsements made by the vendor shall succeed the date and terminate with the vendor’s name, if any and signature. This entry shall be copied in regard to each stamp paper one after another. Then shall follow the total number of stamp papers and their total value thus- “Two stamp papers value Rs. Ten” (in words). When a single stamp paper alone is used, the note shall be “stamp value Rs.....”

(b) The certificate of stamp duty by a Registering Officer or Collector shall be copied after the above said vendor’s endorsements and before the closing entry of the value of stamp.

(c) In case of adhesive stamps, each stamp shall be separately described as regards value and date of cancellation thus- ten paise stamp cancelled 1<sup>st</sup> February 1952 (the date of cancellation on the stamp). The total value shall then be noted as “stamp value ten paise”.

(d) When more adhesive stamps are used for a single deed each shall be described separately regarding value and date of cancellation and the total value entered thus- Two adhesive stamps value paise ..... (in words).

(e) When both a stamp paper and an adhesive stamp are used for a single document, the endorsement regarding stamp paper shall be succeeded by the entry regarding adhesive stamp, the total value being noted as stamp paper number and adhesive stamp (number) value Rs ..... paise ..... (in words).

(f) When no stamp is used for a document, the entry shall run 'Stamp value– Nil'.

- 115. *Entry in register book an exact reproduction of the original:***— Every entry of a registered document shall be an exact copy of the original. If any abbreviation is used in the original, it shall be reproduced in the copy. If a word in the original is mis-spelt or if a word is repeated by mistake, or if some word necessary to complete the sense is omitted the error or omission shall be indicated by underscoring the passage in which it and by the entry of a letter above, with a corresponding footnote e.g.- '(a) sic', '(b) repetition', '(c) omission', but no attempt shall be made to correct the error or to delete the repetition or to supply the omission. If a blank in a document for a name, date or word has not been filled up, the blank space shall be denoted by a dash and a letter shall be entered over it, with a corresponding footnote e.g.- '(a) blank'
- 116.** A scoring in an original document or in the endorsement thereon need not be reproduced in the entry in the register, but the place in the document where the scoring exists shall be indicated in the Register by a small line and a corresponding footnote.
- 117.** A word or a figure wrongly copied in the Register shall be scored out and the correct word or figure written above the incorrect transcription and initialled by the Registering Officer.
- 118.** A blank space shall not appear as such in the entry of a document, or of an endorsement in the Registering Book; but all gaps e.g., unoccupied spaces at the end of the entry of a paragraph or in the entry of a schedule, shall be ruled across.
- 119.** Whenever a line is left blank e.g., before the entry of a schedule of a property or of an inventory or other information, the line shall be ruled across, initialled at either end and numbered in the same series as other corrections in the entry. Where such rulings of blank lines are continuous and on the same page, it will suffice if the whole portion is enclosed by brackets on either side and initialled.
- 120.** No writing whatsoever shall appear beyond the rectangles enclosed by the border lines.
- 121.** The signature of the parties and the Registering Officers in the document and in the endorsements shall be copied in the Register Book with the word 'signed' if it is in English or if in Malayalam, in continuation of the name, irrespective of the fact whether it is a signature or a mark. Corresponding terms for the word 'signed' shall be used when the entry is copied in any other language.
- 122.** If a document contains a signature in a language not understood by the Registering Officer or any of his clerks, it shall be ascertained from the party what letters the signature contains, and shall cause them to be entered in the Register in the language of the document, with the following addition in brackets "Signed in the original in (language)".

- 123.** The authentication endorsement on a power of attorney, when it is both authenticated and registered, shall be copied in continuation of the signature of executants and witnesses and before the stamp endorsement and entry of stamp value.
- 124.** When a document is engrossed on more than one sheet of paper, signatures of executants and endorsement by them such as 'first sheet', 'second sheet' etc., that may appear on the several sheets shall be transcribed in the Register, the portion being distinguished in the register from the document portion by drawing a line about an inch in length both before and after the former.
- 125.** When an endorsement or certificate or both are written on separate sheets of paper attached to a document, the fact shall be noted both on the sheet attached and on the original document thus: "Rider attached to document No ..... of 19..... of book ....." and "Endorsement/Certificate written on rider attached". This shall be signed with date by the Registering Officer but need not be copied in the Register.
- 126.** The seal and the signature of the Registering Officer and the endorsement as to the number of sheets affixed under rule 102 of the Registration Rules need not be copied in the Register Book.
- 127. (a)** In transcribing in the register an endorsement relating to the finger impression on a document, the word 'impression' or its equivalent in the language of the endorsement shall be copied by the side of the entry of the signature of the person to whom the impression relates thus രാമൻ കേശവൻ (ഒപ്പ്)(വിരൽപ്പതിപ്പ്). If the impression taken is that of the left thumb, the digit need not be specified either in the document or in the register volume. In other cases, both the hand and the digit should be specified.
- (b)** When no impression is taken the note 'impression nil' or its equivalent in the language of the endorsement, as enjoined to be endorsed in order 79(c) shall be copied in the Register Book after signature.
- 128.** If the private seal of an executant or witness has been affixed to the original document, the fact as also the shape and description of the seal used, should be mentioned. The seal of a Government Officer need be noted only as a seal, without any description.
- 129.** In supplying in the Register an omission or in correcting a mistake in the entry of a document, the clerk who made the entry shall in all possible cases, be required to supply the omission or correct the mistake, as the case may be.
- 130.** In all cases of re-registration under section 24, registration under sections 72, 75 and 77 of the Indian Registration Act and re-presentation of documents returned for correction, the endorsements if any, previously made on the document and the certificate of previous registration if any, shall be treated as matter which should be transcribed in the endorsement column and shall be reproduced together with any further endorsement or certificate, in chronological order.
- 131.** An endorsement of partial refusal (Registration rule 110) or a note entered below the registration certificate on a document relating to immovable property situated



wholly outside India or outside the tracts to which the Indian Registration Act applies [rule 27(b)] of the Registration rules shall be copied in the Register below the entry of the registration certificate and seal.

**132.** The omission to transcribe in the Register an appreciable portion of a document or that of an endorsement which cannot be conveniently interlined, it detected before the foot-notes are commenced, shall be rectified by inserting the omitted portion at the foot of the entry immediately before the foot-notes i.e., after the transcription of the stamp vendor's endorsement and stamp value or when the registration endorsement and certificate are copied in the column 'copy of document', after the registration certificate. The place where the omitted portion is so copied, as well as the place where it ought to have been copied, shall be connected by asterisks. The asterisk at the latter place, as well as the portion subsequently copied, shall be assigned a number along with the other corrections if any occurring in the entry shall be initialled by the Registering Officer.

**133. *No space to be left in between words while copying documents:—***

**(a)** As no inter space is allowed in the copying of a document, the copyist will see that unused space in the endorsement column or the document column covering a transcription is not left blank. Such space shall be utilized for copying the longer portion of the body of documents or the endorsements. The endorsement portion will end in the word 'seal', the line in continuation being drawn in ink to the end of the column. The next line in the endorsement column will be used for continuing the entries of the body, if they run longer than the entry of endorsement. The body portion of a document ends with the value of stamp papers and adhesive stamps and the line in continuation, shall be drawn in ink to the end of the column. The next line in the body column shall be used for continuing the entries of the endorsement, if they run longer than the entry of the body.

**(b)** After the closing of these entries, the line following shall be used for noting the corrections in the original and writing the notes of correction in the entry of the document. This entry will run right across the body of the documents and endorsements. The entry will usually be in document *(a) interlineations, (b) scorings etc., in Register Book interlineations (1), (4), (6), scorings (2), (3), (5) etc.* Notes of Interlineations, scorings or alterations in documents or in endorsements, thereon shall show precisely what word or words have been interlined or altered, and the exact place in which the scorings or blanks occur.

**(c) *Denoting of correction and scorings in documents:—*** No specific symbol is prescribed for the different class of corrections. The first correction in a document will be given symbol (a) and the next correction of a different pattern symbol (b) but it is to be noted that symbol (a) given to a correction in the entry of a document, has to be repeated to all similar corrections in the same entry. Thus a symbol (a) given to the alteration which is the first correction of a document has to be given to all successive alterations in the same document. In another document, that symbol (a) given to an interlineation which is the first correction of that document has to be repeated to all interlineations in that document. The symbols are to be entered and bracketed above the corrections and over the line.

**134. Numbering of corrections, etc., in register books:—**

(a) Numerals 1, 2, 3, etc., will be given in brackets above the corrections, interlineations, etc., in the Register Book in ascending order. They shall start from the body of the document till total value of stamp, continue to the endorsements and certificates and end with the closing Register Book entry of the notes of corrections in the original. The numerals for such corrections shall be grouped together in the case of similar class of corrections in the register as directed by the rules.

(b) Whenever corrections have to be made in the foot-notes of an entry in the register before foot-notes are closed with the initials of Registering Officer, consequent on an omission or an error noticed either in the transcript or in the foot-notes, the corrections shall not be interlined in the foot-notes, but shall be written in continuation. As regards the attestation of scorings and interlineations in Register Book entries, the instructions issued in rule 134 of the Registration Rules shall be strictly followed.

(c) The Registering Officer shall close the foot-notes in the Register Book with his initials without leaving any space in between. In the next line, the copyist shall add the words “copied by” and then write his name legibly with his designation and sign thereafter. The next two lines shall be bracketed together after writing the words “compared by”, the top line being used by the reader to add his name, designation, the word “Reader” in brackets and signature and the lower line by the clerk examining the entry. A specimen is given below:-

<i>Copied by:-</i>	<i>AB.</i>	<i>Clerk</i>	<i>(Signature)</i>
<i>Compared by:-</i>	<i>CD.</i>	<i>Clerk (Reader)</i>	<i>(Signature)</i>
	<i>KNN.</i>	<i>Clerk (Examiner)</i>	<i>(Signature)</i>

(d) **Authentication of register entry by Registering Officer:—** The Registering Officer shall add his official designation and name in the next line and sign below any corrections, occur in an entry below the authentication (such as notes of cancellation, return of documents, etc.) need only be initialled by the officer.

(e) **Note regarding return of documents:—** The line below this entry shall hold the note of return of the document. The note will ordinarily be-

- (1) *Returned to presentant on .... (specify date),*
- (2) *Returned to nominee on .... (specify full name of nominee and also date),*
- (3) *Returned through Post to presentant on ....., etc.*

Whenever a duplicate or triplicate is also returned along with the original, the note of return shall run- *Returned along with duplicate or triplicate to presentant, etc., on .....*

(f) When a document is returned to messenger, with an authorization letter the fact with name and addition of the messenger (house name, father’s name, etc.) shall be noted in detail.

(g) Excess fee refunded or deficient fee or stamp duty collected, shall be noted at the foot of the connected entry in Register Books and in the respective accounts quoting orders of sanction.

(h) Omission of notes of corrections in the original or copy of a document shall be entered in Sub Registrar's hand before authenticating the entry.

(i) When a scoring or an interlineation extends beyond one line, the entire scoring or interlineation shall be noted by a single figure which shall be repeated on each line over the middle of the scored or interlined portion.

(j) *Pages in Register Book, not to be spoiled or left out of use:*— Copying clerks shall be extremely careful to see that no page in the Register Book is left out or spoiled. In cases, where the pages in a Register Book are spoiled due to carelessness or oversight, the cost of the damaged pages has to be realized at the rate of four paise per sheet from the clerk concerned, when other punishment under the rules is also inflicted; and at 25 naye paise per sheet in other cases.

**135. (a) Responsibility of the copyist:**— Before transcribing the endorsement in the true copy, the clerk copying it shall verify (i) whether the document number marked in the true copy is that assigned to its original. Only after making sure of this fact, the endorsement in the original is to be copied on the true copy. Mistake if any detected should be brought to the notice of the officer at once for rectification.

(b) *Responsibility of the reader and examiner:*— The clerks before commencing comparison should ensure that the volume and page number noted on the document for the copy is correct. In other words, the volume and page number assigned to the copy (and hence on the original) is that which ought to have been assigned to it had been done correctly. Negligence on this, by the clerks, shall be dealt with drastically along with the negligence on the part of the Sub Registrar.

**136. Documents in duplicates:**—

(a) In transcribing a document presented for registration in duplicate or duplicates, the original document shall first be copied as usual and the foot-notes relating to interlineations, etc., in the original and in the entry thereof in the Register, shall then be closed with the initials of the Registering Officer.

(b) Immediately below these foot-notes, the note referred to in rule 109(1) of the Registration Rules as to the number of copies registered with the original shall be copied. This note need not be attested.

(c) Below this note the portion beginning with the name and addition of the scribe followed by the notes of corrections, the names and signatures of the executants, the stamp vendor's endorsement with the certificate denoting the stamp duty borne by the original, the stamp value of the duplicate, the number of pages in the duplicate, and fee realized, shall then be copied in the sequence mentioned here in respect of each duplicate under the caption duplicate I, II, III, etc., as the case may be. Then shall follow the additional endorsement recorded on each duplicate succeeded by the signature of the reader, of the examiner and of the Registering Officer, in the order in which they appear in the duplicate. Interlineations, etc., in the endorsement on the duplicate and in the entry relating to it, in the register, shall be assigned separate entries of letters and figures and foot-notes of such interlineations, etc., shall then be entered.

(d) The same course shall be repeated in respect of the triplicate or any other copy with the words 'triplicate', 'quadruplicate', etc., prefixed.

(e) The additional endorsements required in order (c) above pertain to- (i) difference between the original and the duplicate to be specified and (ii) interlineations, blanks, alterations and erasures in the duplicate, etc., which have to be noted in the certificate of comparison.

(f) The foot-notes in the entry of the document and of the duplicate, triplicate, etc., shall each be separately closed with the initials of the Registering Officer.

(g) The signature of the copyist, the reader, the examiner and the Registering Officer shall be affixed once for all, after all the foregoing entries have been transcribed and compared.

(h) When a document is executed in the form of an endorsement written across or at the foot of a document registered in another office and it is copied in the Register Book as per instructions in rule 137(ii) of the Registration Rules the endorsement portion of the original document shall be treated as part of body of the deed and copied as such in the register book. The note prescribed in rule 137(ii) of the Registration Rules shall be added in the line below the authentication signature.

**137. Rectification and cancellation deeds:—**

(a) A rectification deed or a cancellation deed shall be registered in the same class of Register Books as that in which the original document which it cancels or rectifies has been registered.

(b) In the case of cancellation and rectification deeds, wherein the office of original and subsequent registrations are different, the documents presented, shall furnish details *as* regards the office, book, volume, pages, year and number of the previous document cancelled or rectified. When such documents pertain to the same office information regarding the year, book and number of registration shall suffice. The Registering Officer shall examine the previous document and satisfy himself whether the subsequent document is actually a cancellation or rectification which requires a note contemplated by rule 138(a) of the Registration Rules.

**138. Examination and authentication of entries:—**

(a) It is the primary duty of the Registering Officer to see that the documents are copied and the entries authenticated, so as to facilitate return of documents to parties on the same day of registration. Priority shall be observed in copying of documents over the other functions of an office.

(b) After a document and the endorsement thereon have been transcribed in the Register, the correctness of the copy shall be ensured by causing the original to be read aloud by some officer other than the copyist, while the entry in the filing sheet is followed by another officer.

(c) The examination of the entries shall, as far as practicable, be performed by the permanent staff. In unavoidable cases an acting clerk may be allowed to read a document under examination. But an inexperienced clerk or one with short service shall not be examiner of an entry.

(d) In an office with one clerk, only the copyist shall preferably be employed as 'examiner' of the entry rather than as 'reader' of the original document, as he will then be less liable to repeat the mistakes which he may have made when copying.

The Sub Registrar shall however, during the process of examination, before authentication refer to the entry in the register to ensure that scorings and the like have been noted correctly and that words which are liable to be spelt in different ways, have been copied correctly. As an additional precaution he shall, when authenticating the entry, satisfy himself that, the under mentioned items have been correctly transcribed:

- (i) Names of executants and claimants.
- (ii) Description of property including survey number name and extent.
- (iii) Nature of transaction.
- (iv) The value of consideration, the rate of interest and the time of repayment.

(e) In other offices, the Registering Officer shall examine a certain percentage of the entries in order to satisfy himself that documents are reproduced accurately and faithfully.

**139.** Facsimile stamps shall not be used for affixing signatures or initials on documents or the entries in the Register Books.

**140.** Registration rule 37(ii) of the Registration Rules permitting the rectification of remediable defects in documents on which the presentation endorsement has been made, applies only to a document which has not been admitted to registration i.e., a document on which the admission of execution has not been recorded. Accordingly, when a defect in a document is discovered after the admission of execution has been recorded thereon the document or the entry in the register shall not be interfered with, but the defect shall be reported to the Registrar and his orders obtained in the manner prescribed by order 626(a).

**141.** The aim of the Department should be, whilst paying the closest attention to accuracy in transcription, to meet the convenience of the registering public first by the acceptance each day for registration of as many documents as practicable consistent with the rules and next by the rapid performance of the process of transcription and completion of registration. Registering Officers should be guided by order No.42 in the matter, of acceptance of documents. It should be noted that the acceptance of a large number of documents is no justification for any laxity in the strict observance of the rules regarding the procedure for acceptance and registration of documents. The expeditious transcription should on no account, be effected at the expense either of accuracy in transcription or of the convenience of the public. The copying of documents and the examination of the transcripts shall, wherever possible go hand in hand. Wherever the strength of the staff admits of the arrangement, transcription shall be performed continuously by one or more of the junior clerks who shall be delegated to this work alone or be given only such other duties as lend themselves to combination with speedy transcription. Two volumes shall ordinarily be allotted to each copying clerk, so that whilst the transcripts in one volume are under examination, the other volume will be available for transcribing further documents. The duties of reading and examining shall be assigned to clerks other than the copyist and the examiner who shall always be the Head Clerk or the senior-most of the clerks, unless otherwise specifically sanctioned by the Registrar, shall take up each Register as it is passed

to him for examination and ensure that all further steps in connection with the entry of each document in Register Book are completed without delay. The Registering Officer shall, in turn, take up for authentication each volume as soon as it is ready for authentication.

- 142.** The authentication of an entry shall be made immediately a document has been copied and compared.
- 143.** When authenticating an entry in Register Book, the Registering Officer shall ensure that the under mentioned items have been correctly copied.
- (i) The date of execution.
  - (ii) The date and time of presentation.
  - (iii) Endorsement of signatures and additions of presentant and executants.
  - (iv) The endorsement of payment of consideration.
  - (v) The Registration Certificate.
  - (vi) The stamp value.
- 144.** Copying clerks shall, before commencing their work for the day, ensure that all the entries relating to the previous day have been signed by the Registering Officer and that interlineations, scorings etc., have been duly noted and attested and they shall bring any omissions in these respects immediately to the notice of the Registering Officer.
- 145. *Maps and plans:*—**
- (a)** A copy of map or a plan accompanying a document presented for registration shall be filed along with the filing sheets in the register of the concerned book. However a note shall be added on the map or plan as follows:
- “Accompanied document No ..... of Book ..... Volume .....  
Page .....
- (Sd.) Registering Officer with name, Designation and date.
- (b)** In case of a copy of a map or a plan accompanying a copy of document forwarded under sections 65(1), 66(2), and 67 of the Indian Registration Act, a note in the following form shall be entered in the copy of the map or plan.
- “Copy of map/plan which accompanied the document  
registered as No ..... (Year) of Book .....
- (c)** A copy of a map or plan accompanying any other document shall be filed in the file of appeal orders referred to in rule 186 of the Registration Rules. Cross reference shall be entered in the form prescribed by clause (a) in the Register Book and the file of appeal orders.
- 146. *Notes in Register Books:*—** A note as in rule 138(a) of the Registration Rules shall not be entered in Book V where a subsequently registered will recite that it supersedes a will previously deposited.
- 147.** The notes prescribed by Registration Rule 138(a) of the Registration Rules shall be entered only in cases where a previously registered document is expressly rectified or cancelled by another instrument.

**148. (a)** The notes made in Book I, III and IV under Registration Rules 138(a), 139 and 187(ii) of the Registration Rules shall be in the language of the document.

**(b)** The notes made in Register Books No.I, III and IV under rules 138(a), 139 and 187(ii) of the Registration Rules and order No.140 shall be attested by the Registering Officer's signature and those on copies of maps or plans under order 145 by his signature and sealed with the seal of the office.

**149. (a)** As soon as the number of pages prescribed in order 108(d)(i) is reached in respect of each register book volume the sheets of the volume shall be kept separate and a separate sheet of paper should be attached both at the beginning and at the end of the volume which should be considered as "fly leaves" to the volume. For this purpose paper of superior quality (such as Lancashire Ledger Paper or some other thick paper) shall alone be utilized. A certificate regarding the examination of the volume (after completion) and the defects, if any, noticed during the examination should be added on the fly leaf soon after each volume is completed within 14 days from the date of completion or before binding, whichever is earlier and also again on receipt after binding. The certificate so added at each time should be signed by the Registering Officer with designation and date.

The fly leaves referred to above shall be over and above the title page to be attached to the volume at the commencement of the volume, for incorporation of the particulars of the volumes.

**(b)** Registering Officers will strictly follow the directions issued from time to time by the Inspector General of Registration with regard to the procedures to be adopted for getting the volumes bound.

**150. *Transcription in wrong book:—***

**(a)** The orders of Registrar directing under rule 187 of the Registration Rules the entry of the requisite particulars to be made regarding the document in the appropriate place in the indexes, relating to the proper books shall, together with all connected correspondence, be preserved in the file of correspondence, relating to rectification of defects and errors in Register Books and of registration in wrong offices. When such orders are passed in Inspection Report, the orders shall be extracted and a true copy placed in the file.

**(b)** The orders of the Registrar under rule 188 of the Registration Rules relating to rectification of registration in wrong offices shall be preserved permanently in a Sub Office and filed in the correspondence referred to in clause (a).

## CHAPTER VII

### Indexes

#### GENERAL

- 151.** *The importance of Index work and instructions regarding preparation of the same:—*
- (a) Special care shall be taken in the preparation of indexes, since they form the only guide for tracing previous documents and encumbrances affecting title to property.
- (b) In offices where there is an Upper Division Clerk, in addition to the Junior Superintendent or Head Clerk it is the primary duty of such Upper Division Clerk to prepare the indexes. In other offices, the Head Clerk or the senior most clerk should prepare them.
- 152.** (a) A document shall be indexed as soon as it has been copied or filed in a Register Book and before adding the registration certificate. If the preparation of index is likely to fall in arrears, the Sub Registrar will take necessary steps, such as redistribution of work etc., so that Rule 108 of the Registration Rules is strictly observed.
- (b) It is imperative on every Registering Officer to ascertain personally that every registered document has been duly indexed and to satisfy himself that the indexing has been faithfully carried out.
- (c) All index sheets brought to use during a year shall be consecutively numbered, letter-war in the case of nominal indexes and village-war in the case of Index No.II.
- (d) All index sheets which are to be eventually bound, should be secured between two thick boards or wooden planks and kept under the personal custody of the Registering Officer until bound.
- (e) A memorandum received from another office under section 64 to 67 or section 89 of the Indian Registration Act, shall be indexed as soon as it is filed and before its receipt is acknowledged.
- (f) A memorandum received under section 64 to 67 or section 89 of the Registration Act shall indexed within 3 days from its date of receipt in office.
- (g) The Junior Superintendent or in an office where there is no Junior Superintendent, the Head Clerk shall ensure that: (1) a document is indexed before the certificate of registration is added on the document and (2) that the Index is examined on the date of registration of the document itself.
- 153.** When owing to the length of a document its transcription is completed after that of later documents relating to the same village or affecting the same initial letters of parties' names and the indexing of a latter documents proceeds that of the earlier document, a cross reference shall be entered at the place where the index entry of the lengthy document concerned would have appeared, had it been indexed in the regular order thus:—



“For entry of document No .....,  
See after document No .....”

- 154. (a)** Names shall be entered in full, whenever possible.
- (b)** English names, if indexed in the language of the District shall be indexed as they would be written in that language. E.g.:- *Wilson* under **V**, *Wright* under **R**, *Knox* under **N**. Names such as *Bastian* and *Souza* should be indexed under **Ba** and **Soo** respectively, and *Sebastian* and *D’Souza* under **S** and **D** respectively.
- 155.** When the same person is the executant or the claimant of two or more consecutive documents indexed on the same page of an index, it will suffice to enter his name and addition once against the varying particulars in the other columns which should be covered by a bracket.
- 156.** When a document is registered with one or more duplicates, the number of duplicates as well as the document number shall be noted in the column headed, “Number of document”, e.g.- *220 with three duplicates*.
- 157.** Where any particulars for an index are taken from a recorded deposition, a note to the effect, referring to the volume and page of the deposition book, shall be entered in the index.
- 158. (a)** If in the same year the original of a sale certificate granted to a party, is registered and a copy is also received and filed under section 89 of the Indian Registration Act, the latter document shall not be indexed separately but it will suffice if the volume and the first page in which it is copied and its number or the volume and the first page in which it is filed, as the case may be, are added in indexes I and II to the entry of the volume and page and of the number if any, of the first document with the words “vide also” prefixed.
- (b)** When however, the registration of the original and the receipt of the copy occur in different years, each document shall be indexed separately.
- 159.** Memoranda and copies received under sections 64, 65, 66 and 67 of the Indian Registration Act or under rule 188(iv) of the Registration Rules shall be indexed with reference to the year in which they are received and not with reference to the year in which the documents were registered.
- 160.** When a document in a wrong Register Book is transferred to the proper Register Book, it shall be indexed in the indexes relating to the correct book in the year in which the transfer is made, a note drawing attention to the entry in the wrong book being inserted in the indexes of the correct book belonging to the date of registration. A note of transfer shall also be made against the index entry of the wrong book.
- 161.** In cases in which a memorandum relating to a document is received in advance of the copy order 187(a) the latter shall not be indexed separately when received, but in the indexes I and II, the volume number and pages of the file in which it is filed shall be noted against the entry of the Memorandum already made.
- 162. Indexes I, III and IV:—** If a person is known under two names, each shall be indexed separately. All the pages covered by the entry of a document in cases

where entries exceed a page shall be shown in the indexes in the column 'page of entry' in the following form:—

'178 to 196' or,  $\frac{189}{190}$  as the case may be.

- 163.** When the names have the same initial letter, they shall be written one below the other with the word "alias" or its equivalent in the local language inserted between them e.g:-

<i>Name of the</i>	$\frac{\textit{Executant}}{\textit{Claimant}}$	<i>Addition</i>
Ramachandran	alias	Son of ... etc., ... etc.
Ramaswami		

- 164.(a)** (1) All names of persons shall be indexed with reference to the initial letter of the surname or of the house-name where such name exists, as is the case with English and Telugu names and with certain castes in Malabar. When the house-name does not exist, as with Tamil, Kanarese, Oriya and Muslim names, the indexing shall be regulated by the initial letter of the person's name followed in the case of a Hindu, by the village name or any other distinguishing name and in the case of a Muslim by the prefix if any such as Sayyid, Mir, Shaik, Ghulam or affixes such as Beg, Khan, Shareef. If a woman bears the house-name of her husband or father, the indexing shall be with reference to the initial letter of the house-name, otherwise to the initial letter of her own name.

(2) A document executed on behalf of the Administrator General the official Trustee the official Assignee or a Receiver shall be indexed under "Administrator General" "Official Trustee" "Official Assignee" etc; as the case may be, the name of the officer actually executing the document being entered in the column "Addition".

(3) "Institutions attached to a particular locality such as court, temple, companies, banks, societies associations or colleges which have a merely local importance shall be indexed under the initial letter of the name of a place where the institution is situated, thus- (a) NADAPURAM Munsiff's Court under "N" (b) Ottappalam N.S.S. College under "O" (c) Adayar Theosophical Societies under "A" (d) Ambalapuzha Sree Krishna Temple under "A" (e) Guruvayoor Sree Krishna Temple under "G", the Name of the Judge, or the President, as the case may be, being entered in the column "Addition", when these names are also mentioned in the document itself. But if the name of the area or locality borne by an institution differs from that of the town or village in which the institution is actually located it should be indexed under the initial letters of both the names. E.g:- കിഴക്കഞ്ചേരി അംശം ദേശത്ത് സ്ഥാപിച്ചിരിക്കും വടക്കഞ്ചേരി കോ-ഓപ്പറേറ്റീവ് ബേങ്ക് shall be indexed in കി sheet and വ sheet.

(4) When a person executes a document both for himself and as representative of another person, his name shall be entered twice, once as executing for himself and again as the representative of the other person. But when an executant or claimant, or one who is both, has to be indexed for himself and as

guardian of others, it will be sufficient to enter the name only once with the letters E and G; C and G or B and G. added within brackets respectively.

**(b)** In the case of a document registered after the death of the executant on the admission of his representatives, the name of the executant alone shall be indexed; but the fact that the admission of execution was made after his death by his representatives shall be shown in the column “addition”.

**(c)** The name of an executant denying execution shall not be indexed.

**(d)** When a document is re-registered the names of parties to whom re-registration relates shall alone be indexed.

**(e)** When a minor without a name is a party to a document, the name of his guardian shall be indexed and the fact that the minor has no name shall be noted in the column “addition”.

**(f)** A document executed by the court of wards shall be indexed both under “court of wards” and under the name of the ward on whose behalf it is executed.

**(g)** In the following cases the names of all the persons whose rights are affected by a document shall be indexed both as claimants and executants:-

- (1) an award by arbitrators in private arbitration, whether certified or not by a court;
- (2) an award under the Land Acquisition Act;
- (3) a decree of a court;
- (4) a court sale certificate;
- (5) a revenue sale certificate under the Kerala Revenue Recovery Act;
- (6) a sale certificate under the Kerala Estate Land Act; and
- (7) a certificate of sale under the Kerala Co-operative Land Mortgage Banks Act, or the rules made under the Kerala Co-operative Societies’ Act

**(h)** When a document falls under sub-clauses (1) to (4), (6) and (7) the names of the arbitrators and the designation of the court or of the Collector of revenue or other officer as the case may be and when it falls under sub-clause (5) the “Government”, shall be indexed as executants, the column headed “addition” containing the additions of the arbitrators or the name of the officer presiding over the court or the name of the Collector or the Revenue Officer or the Deputy Registrar if known or shown.

**(i)** In the case of awards under the Land Acquisition Act, the name of the person or body or the department of Government (and not simply Government) for whose benefit the lands may be required, shall be indexed as claimant.

**(j)** The name of the owners of property affected by an award or sale certificate, and the name of the plaintiffs and defendants for and against whom relief is granted by a court decree, shall be indexed both as executants and claimants.

**(k)** The name of persons who have been declared by courts to have no interest in the property need not be indexed.

**(l)** In the case of security bonds executed under the provisions of the Indian Civil Procedure Code, it suffices if the name of the court, the judgment-debtor, the

surety and the decree-holder alone are indexed. Security bonds executed by officers of courts should be indexed under the name "Government".

**(m)** Index I for a sale deed executed by a Civil Court under the Indian Civil Procedure Code, shall be prepared in the same manner as the index of a court sale certificate.

**(n)** In the case of a deed of cancellation or modification, the name of the person claiming under the deed cancelled or modified shall be indexed as the claimant.

**(o)** In the case of a receipt endorsed on a document such as a mortgage or bond, the names of the payer and the payee mentioned in the receipt shall alone be indexed, the former as claimant and the latter as executant.

**NOTE:**— When receipts are presented for registration in which the name of the payer is not mentioned or in which it is not stated how the parties to the receipt are connected with the original mortgage deed, the registering officer shall advise the parties to add the name of the payer or to specify the locus standi of the parties in regard to the original transaction. The information regarding the locus standi of the parties shall be noted in the column "addition of person" in indexes I and II.

**(p)** In the case of a bail bond executed in favour of a Civil Court by the guardian of a minor in whose favour a decree has been passed, for receiving the decree amount on behalf of the minor from the court into which it had been paid by the judgment-debtor, the guardian shall be indexed as executant and the court as claimant. The other parties need not be indexed.

**165.** Where a document relates to immovable property situated in several villages of the same or different sub-districts, the entries in column 4 of index I against the first and subsequent names, shall be made in the manner prescribed for entries in column I of index II.

**166. (a)** In the case of a will or an authority to adopt, the name of the testator or the donor shall be entered in column 1, and the names of the executors or other persons appointed thereunder in column 2 followed by the words "executor" or "person appointed under" in brackets.

**(b)** A Will is not only legally inoperative until after the death of the testator, but can be revoked or modified by the testator at his pleasure during his life-time. In the case of a Will presented during the life-time of the testator the names of the persons who have been nominated by the testator to carry out his intentions and wishes as regards the disposition of properties comprised in the Will whether such persons are designated executors or otherwise and whether they are personally interested in the disposition of the property mentioned in the will or not, should alone be indexed (section 55 of the Indian Registration Act) and not the names of the persons who will be entitled to benefit under the Will when it becomes operative. In the case of Wills presented after the death of the testator when the Will has become legally operative, the names of both classes of persons should be indexed. There may be several executors or sets of executors under the same Will for different kinds of properties, the nomination may be made either expressly or by implication. Thus in 7 Bomb, H.C.R. 64, the mother of infant children, appointed as their guardian by the testator for the purpose of managing the

property during their minority, was held to be an executrix by implication and entitled to probate.

(c) The same considerations as regards the person whose names should be indexed are applicable to authorities to adopt. The “person appointed” under the authority to adopt is not the person to be adopted who may not be specified in the document at all, but the person nominated in the document to carry out the wishes of the donor, that is to say the donee of the power, who performs functions analogous to those of an executor in the case of a Will.

**167. Index II:—**

(a) One or more sheets shall be assigned to each village or desom.

(b) When a village is clubbed with another village a note of the change shall be entered in index II, after the last existing entry relating to the village. The date from which the change has been effect to, shall be noted the same time.

(c) (i) When property to which a document relates is situated in several villages in the same of different sub-districts, the entry in column I of each index entry shall contain a reference to the other villages and sub-districts if any.

(ii) The name of the sub-district to which a village belongs shall be added only when the village is not included in the jurisdiction of the sub office in which the indexing takes place.

(iii) Abbreviations shall not be used in describing the nature of documents.

(iv) Where the number of villages effected by a document is large, it will suffice to enter all the villages in details in the entry relating to the first village in alphabetical order and to note only the number of additional villages in the indexes relating to the other villages e.g.:- “VAYALALAM” and 29 villages noted against “KODIYERI”. The instructions in this clause apply also to copies and memoranda received from other offices which affect properties situated in more villages than one.

**168.** The description of property shall be as complete as possible with the view of facilitating the identification of the property in tracing encumbrances and references to registered documents.

The main clauses of immovable property affected by registered documents are:-

(1) Fields. (2) House-sites. (3) Houses. (4) Trees. (5) Wells. (6) Whole Inam Villages. (7) Shares in (6). (8) Ferries. (9) Fisheries. (10) Easement rights.

In describing these different classes of property in the index, the particulars mentioned below shall be entered:-

(1) Fields.

(a) If surveyed—

(i) Survey number sub-number or letter.

(ii) Whether Government or inam.

(iii) Extent.

(iv) Dry, wet or garden.

(v) Houses, buildings, wells if any thereon.

(vi) If the property referred to is a portion of field not bearing a sub-number or letter, in what part situated the portion of the field such as half, quarter, etc., and name it bears if any.

(vii) The boundaries of the property affected by the document.

(b) If unsurveyed—

(i) Name if any.

(ii) Boundaries when the field does not bear a recognized name.

(iii) Whether Government or inam.

(iv) Extent.

(v) Whether dry, wet or garden Houses, buildings, wells if any thereon.

(2) House sites; and (3) Houses.

(i) Name of street.

(ii) Side of the street on which situated.

(iii) Boundaries.

(iv) Survey Nos. where houses are surveyed

(v) Municipal Numbers if any.

(vi) Whether thatched, terraced or tiled.

(vii) Measurements if given in the documents.

(4) Trees and (5) Wells by their boundaries with reference to the fields in which they are situated. No reference need be made in the index, to trees described in a document as standing on the land dealt with in the document, unless the trees themselves specifically form a portion of the subject of the transaction.

(6) and (7) Whole inam village or shares thereof

(i) Boundaries of the village.

The boundaries may be omitted in the case of villages entered in the printed list of village published by the Registration Department.

(ii) The number of shares out of the total number into which the village is divided.

(iii) The extent if possible.

(8) Ferries by their recognized names and by the names of the rivers to which they appertain and villages in which they are situated.

(9) Fisheries with reference to the rivers or tanks to which they relate and the local limits to which the right of fishing extends.

(10) Rights of easement with reference to the dominant and servient tenements in regard to which the rights are created.

(11) In the case of copies of orders under the Land Improvement Loans Act, 1883, received under section 89(1) of the Indian Registration Act, both the lands to be improved and the lands if any to be granted as collateral security should be entered in index II.

**169.** If a document registered under section 30(1) of other Indian Registration Act or a copy of a document received under section 65 or section 67 of the Act, does not relate to any property situated within the amalgamated sub-districts, it will suffice if a sheet is opened in index II of the first village in his District mentioned in the

document or copy of the document as the case may be end enter thereunder the names of all the other villages with the names of their sub-districts added in which portions of the property affected by the document are situated. Details shall as usual, be entered in all the columns except column 2 (Name and description of property) which may be left blank.

- 170.** When property lies in two or more sub-districts, it will suffice, if each Sub Registrar indexes only such property as lies within his own sub-district with a reference in column 1 to the names of the villages and sub districts in which the other portions of the property are situated.
- 171. (a)** When a document affects property which has been indexed in connection with a previously registered document of the same day, a mere reference to the previously registered document in the column “Name and description of property” will suffice.
- (b)** When a document does not contain a description of the property affected by it, but only a reference to a document registered in previous year which contains such description, the description shall be copied from the previously registered document.
- 172. (a)** A document received under section 89 of the Indian Registration act or a return of land acquired under the Land Acquisition Act shall be indexed in the indexes of the year of receipt of the document in the registration office.
- (b)** In the column date of execution shall be entered the date on which the document was signed.
- (c)** In the column ‘date of presentation’ shall be entered the date of receipt of the document. Should the document be returned for rectification, the date of its receipt after verification shall be adopted.
- 173.** When a document has been executed by different persons on different dates, all the dates shall be shown in the column ‘date of execution’.
- 174.** When a document which has been refused registration, is ordered to be registered by a Registrar or a Court, the dates of first and second presentation shall be entered as the dates of presentation.
- 175. (a)** Notes of previous registrations shall be entered in red ink in index II.
- (b)** In index No. II of a rectified document the note of rectification shall specify the error rectified.
- 176. *Subsidiary Indexes:***— A subsidiary index in the form referred to in rule 149 of the Registration Rules shall be maintained for every surveyed village.
- 177.** As each document is registered, the registering officer shall himself enter the number and year of the document against the survey number effected, thus 1085/64 which means document No. 1085 of 1964. In the case of documents filed in File Book I, the number of the volume of the File Book and the first of the pages in which such copy, memorandum or certificate is filed, shall take the place of the number of the document thus:- F.115 P.225/64 which means a document of the year 1964 filed in File Book I, Volume 115, Page 225.

The under mentioned abbreviations to denote the nature of transactions shall be entered in the subsidiary index before the number of the document:-

Sales	...	S
Mortgage, simple or with possession, Further charge and transfers of mortgages	...	M
Leases, counterparts of leases, perpetual leases and transfers and surrenders of leases	...	L

The following shall be added to the list of abbreviations that shall be used to denote the nature of transactions while posting the number of the documents in the subsidiary index.

Gift	...	G
Settlement	...	St.
Gift (Settlement)	...	G(S)
Partition	...	P
Agreement to sell	...	Ag.S
Release	...	R
Receipt	...	Rt.

Transactions of any other nature need not be distinguished by giving a letter

**178. (a)** In order to facilitate the maintenance of the subsidiary indexes registering offices are supplied with Settlement Registers.

**(b)** The pages relating to each village shall be numbered consecutively in a separate series.

**(c)** Each survey number or sub-division in a village shall be entered in the first column in serial order, two lines being set apart for it. Sub-divisions shall be entered consecutively before the survey numbers of which they are sub-divisions. The date of sub-division or the date of intimation of the sub-division by the Revenue Department [Order No.179(a)] whichever is earlier, shall be entered against every sub-division formed, as well as against the number from which the sub-division was derived. Similarly in respect of sub-divisions clubbed, the date of such clubbing or the date of intimation of such clubbing shall be entered against the clubbed sub-division as well as against the sub-division from which the clubbed sub-division was formed.

**(d)** If in any case, the space provided for a survey number or sub division is found insufficient or if there is no space below the survey number for further sub-divisions or clubbed sub-divisions which have to be entered, the further entries shall be made on supplemental sheets of the subsidiary index and all the entries shall be connected by cross reference entered in column 6 against the respective numbers of sub-divisions.

**179. (a)** In order to ensure that every sub-division or clubbed sub-divisions of survey number is noted in the subsidiary index, Tahsildars have been directed to forward to registering officers, quarterly list of all new survey fields and Sub-divisions and



of all Sub-divisions clubbed with the patta numbers and the name of the owners showing in each case, their extend, and the corresponding old survey numbers and Sub-divisions together with copies of the remarks made in the Field Measurement Book and in the A Register, including particulars of the old Sub-divisions corresponding to the clubbed sub-division.

They have also been directed to see that when Village Account, No.10 is re-written periodically, a list is furnished to the Sub Registrar, showing the new patta numbers corresponding to the old ones.

**(b)** Sub Registrar, shall ensure that these quarterly lists are received regularly from the several Tahsildars, in their sub-districts. In Registrar's Office the receipt shall be watched from the Periodical Register, the columns being altered appropriately.

**(c)** On receipt of a list, the registering officer shall allot in the subsidiary index or field-war index, as the case may be, new openings for the sub-divisions and clubbed sub-divisions and then they are entered on a page distinct from that containing the entry of the main survey number or sub numbers, he shall connect the entries of the main number and of all the sub-divisions by cross-references. He shall also enter in the Settlement Register the sub-divisions and the clubbed sub-divisions with the extent. These lists shall be filed in a separate file and on them shall be entered a note in the registering officer's own hand to the effect that the sub-divisions and clubbed sub-divisions contained therein have been duly entered in the Settlement Registers and in the subsidiary indexes.

**(d)** The posting of the survey sub-divisions contained in the periodical received from the Revenue Department, (i.e.) list of changes in the survey shall be assigned, if possible to a clerk with experience. The posting of the sub-divisions made by the clerk shall be completely checked by the Head Clerk or the Junior Superintendent, as the case may be. The clerk who has posted the list of survey sub-division shall add the following certificate on the list itself and sign it after writing his name, designation and date.

“Certified that all the survey sub-divisions and clubbed sub-divisions contained in this list have been duly entered by me in the settlement registers and subsidiary index with necessary cross references”.

The Junior Superintendent or Head clerk as the case may be, who has checked the posting shall add a similar certificate to the effect of having done so. The Sub Registrar should test check at least 10% of the posting and add a similar certificate in his own handwriting to the effect of having test checked the postings.

**(e)** The statement after posting shall be filed in a separate file called “File of Statement of survey Sub-divisions”.

**(f)** A register with the following entries shall be opened in every Sub-Registry Office and the entries therein shall be filled up.

- (i) Quarter to which the sub-division statement relates.
- (ii) From whom due.
- (iii) Date on which the statement is due in this office.
- (iv) Date of reminders, if any, sent.
- (v) Date of receipt.

- (vi) Date of posting in the subsidiary Index and settlement Register.
- (vii) Initials of Sub Registrar.

The Head Clerk or Junior Superintendent, as the case may be shall be responsible for the up-keep of this register, which must always be kept up-to-date.

In office with a single clerk, the Sub Registrar should check every entry before adding the prescribed certificate.

**180. (a)** In a district in which re-survey or revision survey is proceeding preliminary to resettlement, Registrars shall take steps to ascertain from the settlement officer the changes made in the limits of revenue villages or taluks as well as in survey numbers and the probable dates upon which the revised adangals in respect of villages in each taluk will be completed and he shall arrange for the Sub Registrars concerned being furnished with a co-relation list showing the old and new survey numbers in each village and for the communications to them of any changes in the limits of villages and taluks. The co-relation list shall be prepared by the Sub Registrar of the station in which the taluk office, is located from the revised adangals of each village kept in that taluk office, on sheets of the forms used for the subsidiary indexes, temporary hands being employed for the purpose. The Sub Registrar, shall prepare the lists not only for the villages of his own sub district, but also for all the villages for which the revised adangals are available in the taluk office, distributing the index forms thus prepared, which relate to village outside his sub-district to the registering officers concerned.

**(b)** The Registrar shall also ascertain from the Revenue Department the exact date from which the new numbers will be adapted to the revenue accounts and direct the Sub Registrars concerned to start from that date the fresh set of subsidiary indexes on the new forms thus sent to them and to close the old subsidiary index.

**(c)** After the introduction of the new numbers into the revenue accounts, which is usually from the commencement of a fasli, the Sub Registrar shall insist upon the entry of new survey numbers in documents tendered for registration.

**181. Examination indexes:—**

**(a)** The index entries of every document shall invariably be compared with the entries in the register books to ensure that the particulars required to be indexed, have been correctly entered and that the indexing of no document, property or name, have been omitted.

**(b)** The Registering Officer is primarily responsible for the accuracy of the indexes. He should see that the work of preparation and examination of the indexes are done, then and there, without any delay. In offices with an average annual registration of 1500 and less, the Registering Officer should himself examine all the entries in the indexes with the Register Volume at the time of authentication. In offices with heavier work-load, he should examine a fairly good percentage of the entries. Where this is not practicable or possible on account of other works he should daily test-check the entries in the indexes already examined by the clerks of at least eight documents selected at random. He should initial each entry of a document, each correction and also each page as and when it is completed.

(c) The examination of indexes shall be performed by the Junior Superintendent. In offices where there is no Junior Superintendent it shall be performed by the Head clerk and in his absence, by the senior most clerk. As far as possible the examination shall be performed by the permanent staff. In unavoidable cases a temporary incumbent may be allowed to read from the index whilst a permanent clerk verifies with the original document or the entry in the Register Book, the temporary incumbent signing as reader in the register prescribed by order 182(a) and the permanent incumbent as examiner.

(d) The Junior Superintendent or the Head clerk, as the case may be will be held primarily responsible for the timely preparation and examination of Index.

**182. (a)** A Register as prescribed in *Appendix IX* of the Kerala Registration Rules, shall be maintained in each office, showing the names of the persons who prepare and examine the index entries. The first, third and fourth columns of this register shall be filled up as soon as documents are admitted to registration or filed in the file Book. Entries in other columns shall be made as soon as the events described by the different headings take place. The indexer, the reader and the examiner shall write their name, sign with date and designation in the respective columns. The entries made in the register shall be checked by the Registering Officer to ensure that no document has been omitted to be indexed and in token of having done so, he shall initial with date in the last (remarks) column of this register.

(b) In making entries in column (4) of this Register, if there are more than one name beginning with the same letter, it will suffice if the initial letter is written only once, with the number of names added as a suffix. For instance, if there are three names with the initial letter P, the entry in column (4) shall be "P-3".

(c) Whenever a change occurs in the charge of an office owing to the transfer of an officer or to an officer's proceeding on leave, other than casual leave or examination leave, a certificate in the form which follows, shall be endorsed by the outgoing officer in the Register below the index entry relating to the latest document registered during his tenure of office:-

"Certified that I have satisfied myself that all the documents registered or filed during the portion of the year ..... (here enter year) for which I have been in charge have been duly indexed and that the entries have been checked."

(Signature)

Date .....

Sub Registrar

**NOTE:—** When a Registering Officer is unable to add the certificate in the register itself, e.g.:- when a Registering Officer who proceeds on casual leave, avails himself of long leave in continuation thereof and is transferred to another station, the Registering Officer shall forward to the concerned office the requisite certificate on a slip of paper with his signature and date and this slip shall be pasted in the appropriate place in the register of preparation and examination of indexes.

(d) At the close of each calendar year a similar certificate shall be endorsed below the index entry relating to the last document of that year, but when an officer has

been in charge of the office throughout the year, the undermentioned portions of that certificate shall be omitted.

“Portion of the” and “for which I have been in charge”.

(e) In the event of a subsequent communication being received from a revenue officer or from a court amending a sale certificate or other document already filed in File Book I, under section 89 of the Indian Registration Act the pages of communication filed in File Book I, shall be entered in the appropriate place in the Register with a note as under:

“Correct document filed on pages ..... (Page ..... of this register)”.

A corresponding note shall also be made against the entry of the corrected communication and it shall run as follows:-

“Corrected the document filed on page ..... of the Register”.

### **183. Examination of Indexes in Sub-Offices by Registrars:—**

(a) The Registrars on tours of inspection shall cause the indexes in Sub-Registry Offices to be examined minutely as described hereunder.

- (i) that the indexes have been prepared in the prescribed form;
- (ii) that every document in Book I has been indexed;
- (iii) that items which are common to Indexes I and II tally each of those indexes;
- (iv) That the entries regarding “date of execution”, “date of presentation”, “date of registration”, and “nature and value of transaction” in index II tally with the corresponding particulars entered in Account A;
- (v) that copies and memoranda under sections 64 and 65 are shown in the concerned account to have been issued for documents affecting property situated in more than one sub-district as given in index II;
- (vi) that a document found to affect property in more villages than one has been indexed in all the villages laying within the sub district;
- (vii) that as regards cases falling under clauses (v) and (vi), reference has been given in column (1) of each entry in index II to all the villages and sub-districts in which the immovable property is situated, as prescribed in order 424;
- (viii) that the description of property is sufficient for purpose of identification in tracing encumbrances and registered documents;
- (ix) that notes of previous registration and references have, where necessary been entered in respect of documents such as transfers of mortgages, rectification deeds, cancellation deeds, revocation deeds, etc.

(b) Not only shall inconsistencies between Account A and the indexes be corrected but measures shall also be taken to rectify, as far as practicable, and to deal with any breaches of the provisions of the Registration Act, the Stamp Act and the Table of Fees. Thus, when the date of execution or of presentation

entered in Account A, differs from that in the index, the Registrar shall not rest content with the assurance that it has been corrected by the Sub Registrar, but he shall ensure that the date is permissible with reference to the requirements of the Indian Registration Act; if a time-barred document has been accepted for registration without levy of the prescribed fine or the previous direction of the Registrar, he shall ensure that intimation has been issued to the party concerned of the invalidity of the registration in order to enable him to execute a fresh document; if there has been a short levy of fees or a loss of stamp duty, he shall consider the responsibility of the Sub Registrar in the matter of recovery.

(c) The indexes maintained in amalgamated Sub Registrars' Offices shall be checked in the Registrar's Office in the same manner as the indexes of Sub-Registry Offices and the results of the examination shall be placed on record with notes to show that the mistakes have been rectified.

- 184. (a)** After the documents of a year have been indexed and the indexes have been checked, the pages of indexes I and II shall be numbered in ink consecutively. A title page shall there be prefixed to each of these indexes, on which the total number of pages shall be entered with a certificate signed and dated by the registering Officer when an officer has been in charge of an office throughout the year to which the indexes relate the certificate to be added on the title page shall be in the following form.

“Certified that I have satisfied myself that all the documents registered or filed in this office during the year have been duly indexed and that the entries have been checked.”

S.R.O..... (Station)                      Signature and Name and Designation  
Date:    of the Registering Officer.

In other cases the certificate shall be in the following form.

“Certified that the officers in charge previous to myself has (have) recorded the fact that all the docs. registered or filed during the portion of the year for which he (they) was (were) in charge were duly indexed and the entries checked.”

S.R.O..... (Station)                      Signature and Name and Designation  
Date:    of the Registering Officer.

“Certified also that I have satisfied myself that all the documents registered or filed during the portion of the year for which I have been in charge have been duly indexed and the entries have been checked.

S.R.O..... (Station)                      Name and Signature of the  
Date    Registering Officer.

- (b) Title page to index III and index IV shall be prepared and prefixed to the respective files of these indexes so that the index III or IV for a particular year is preceded by the title page revealing details for that year.

(c) A certificate similar to that detailed in order 184(a) together with the total number of pages shall be entered on the title page prefixed to index III and index IV [Order 184(b)].

(d) The indexes of each year will terminate at the year end.

Index I and II shall then be divided into convenient volumes not exceeding 500 pages. If the particular class of index pertaining to a year is bound into 2 or more volumes [vide rules 152(IV)(b)] the volumes shall be linked or cross connected by means of notes entered at the foot of the last page of the index of the first volume and at the head of the first page of the succeeding volume and so on. For example if the index of an S.R.O. for a particular year consists of 1850 pages, it shall be bound into 4 volumes, 3 volumes of 500 pages each and 1 volume of 350 pages. The notes to be added shall be as follows:

- (i) At the foot of the last page of the first volume, "Pages 501 to 1850 bound into separate volumes".
- (ii) At the head of the first page of the second volume "pages 1 to 500 bound into a separate volume".
- (iii) At the foot of the last page of the second volume "pages 1001 to 1850 bound into separate volumes".
- (iv) At the head of the first page of the 3<sup>rd</sup> volume "pages 1 to 1000 bound into separate volumes" and so on.

(e) A table of contents shall be prepared, for the index of a particular year before the 15<sup>th</sup> January of the Next Year.

(f) The table of contents shall be prepared for each volume and it shall give, in alphabetical order, a reference to the initial letters of the names of persons appearing in Index I and to the names of villages in regard to which entries appear in Index II and prefixed to the respective volumes next to the title page. A list of abbreviation used shall also be prefixed to the first volume of Index II.

(g) The sheets of Index III and Index IV shall be filed each in a separate file book, a general table of contents being prefixed to the file. The pages of each file shall be numbered in ink consecutively and the files shall be bound when a sufficient number of pages for a bound volume has accumulated.

(h) Subsidiary indexes, the bulk of which varies from time to time shall not be bound whilst current, but the last set shall be bound when a new set is started.

## CHAPTER VIII

**Copies and Memoranda**

- 185. Preparation of memoranda regarding lengthy documents:—** Copies and memoranda under section 64 to 67 of the Indian Registration Act shall be forwarded on the date of registration. In the case of lengthy documents, preparation of memoranda shall go hand in hand with copying so that by the time the deed is registered, the memoranda may also be ready for despatch.
- 186. (a)** When a document affecting property situate partly in Kerala State and partly out of Kerala State, but within the area to which the Registration Act applies, is registered in an office within this state a copy and memorandum or memoranda shall be forwarded to the Registrar under whose jurisdiction, the concerned properties are situated.
- (b) Memoranda to be sent to Registrar or Sub Registrar, as the case may be:—** Memoranda and copies under sections 64 to 67 of the Act, shall be prepared in the office of original registration, entered in the usual returns and despatched to their destination along with an acknowledgement in Form No.23. A memo pertaining to a sub-district within the jurisdiction of the same Registrar, to whom the Sub Registrar of original registration is subordinate, shall be directly transmitted to the Sub Registrar concerned. In other cases, a memoranda and copy shall be directed to the Registrar under whose jurisdiction, a portion of the property is situated. The Registrar shall proceed under orders 198 and 199 infra after entering them in his returns. The memoranda transmitted by the Registrar shall also be accompanied by an acknowledgement. These acknowledgement receipts shall be duly returned by the receiving and filing officers to the issuing officers, who shall paste them to the counterfoils concerned.
- 187. (a)** In the case of a lengthy document relating to immovable property situate in more districts than one, the memoranda required for transmission to sub-offices under rule 191 of the Registration Rules shall be forwarded in advance of the copy required for filing by the Registrar under sections 65 to 67 of the Indian Registration Act. In such cases, the Registrar, on receipt of the copy shall forward it to the Sub Registrars to whom the memoranda relating thereto have already been issued in advance and the latter officers shall check, the memoranda with the copy and note the fact on the memoranda and the copy. The copy shall then be returned to the Registrar for filing.
- (b) Large number of copies and memoranda in respect of the same document—preparation of:—** When a large number of copies and memoranda have to be prepared in respect of the same document, the completion of all copies need not awaited, but each copy or memorandum shall be despatched as soon as it is ready.
- (c)** When copies of documents are forwarded under section 65 of the Indian Registration Act from one district to another and are written in a language other than English or the language of the district to which they are forwarded, they shall be accompanied, by an abstract in English containing all the information required

for the preparation of the indexes. The abstract shall be filed in Book I with the copy.

The despatch of every copy of memorandum shall be entered date war in Account 'A'.

- 188. (a)** When a deed of rectification or a deed of cancellation is registered in any the of the offices within the jurisdiction of which the property affected by the original document is situate, a copy of a memorandum as the case may be, as required by sections 64 to 67 of the Indian Registration Act shall be issued to each of the other offices, the prescribed fee therefore being levied from the party. The copy or memorandum shall in the receiving offices be filed in file-book I and indexed. The instructions in Rule 138(b) of the Registration Rules regarding the addition of notes of cancellation or rectification apply mutatis mutandis to copies and memoranda received under this order and to index II relating thereto.

Where after the transfer of a village from one sub-district to another, a deed is registered in the office to the jurisdiction of which the village has been transferred, rectifying or cancelling a document affecting property in that Village and registered in the office to which the village was formerly attached, a memorandum of the rectification or cancellation deed, shall be forwarded to the office, where the original document was registered, but no memorandum fee shall be levied to such a case.

**(b) Memorandum without levy of fee:**— When a document cancels or rectifies an error in or makes any change in the terms of a document previously registered in Book III or Book IV in another office, a memorandum shall be sent to that office without levying a memorandum fee. This memorandum shall be filed in the file of appeal orders and judgments in the office to which it is transmitted. The memorandum need not be indexed in the receiving office.

**(c)** When a document is registered under section 30 of the Indian Registration Act in any of Registrar's Offices and a deed of rectification or a deed of cancellation is registered in respect of the document in any of the offices within the jurisdiction of which the property affected by the original document is situate, memorandum containing all the information required for the preparation of indexes, shall be sent to the office which registered, the original document, without levying any fee in view of the requisite notes under Registration Rule 138 being entered in the records of that office. The memorandum shall be filed in File Book I.

For some time before the introduction of the Indian Registration Act in the erstwhile Travancore area, any document relating to immovable property could be registered in any office irrespective of the Jurisdiction over the property dealt with by it. This has occasioned the registration of many documents in offices other than the office of jurisdiction. With the introduction of the Indian Registration Act, documents relating to immovable property could be registered only in the office, having jurisdiction over the property affected by it. As the documents rectified or cancelled by the deeds registered in offices, having jurisdiction over the property, have been registered in offices without jurisdictions over the properties these registrations are analogous to registration under section 30 of the Indian Registration Act. The procedure prescribed in (c) supra should be followed in such cases. When the office of registration of the rectification or cancellation deed



happens to be in a district other than the one in which office of registration of the prior deed is situated, a memorandum as also a copy of the document shall be forwarded to the Registrar of the latter district who shall write the notes under rule 138 of the Registration Rules below the copy to file it in Book I and forward the memorandum after verification to the office of registration of the prior document for action under rule 138. The memorandum and copy of the document shall in such cases be sent free of cost.

**(d)** When a document affecting immovable properties in two or more districts registered in one district and a deed cancelling or rectifying it is registered in a sub-office of another district, the officer who registers the latter, shall send to the Registrar of the other district a memorandum containing all the information required for the preparation of indexes without levying any fee in view to the requisite notes under rule 138 of the Registration Rules being entered in the records of that office. The memorandum shall be filed in File Book I.

When without levy of a memorandum fee under clauses (b), (c), (d) or second sub-paragraph of clause (a) a memorandum in the form prescribed for memoranda under section 64 of the Indian Registration Act of a deed cancelling or rectifying an error in a document registered in another office, is forwarded to such office the despatch of the memorandum shall be shown in Account A as in the case of other memoranda, with a footnote to the effect that no fee has been levied for the memorandum.

**189. (a)** An extract from the Circular Proceeding P.Dis.No.887 of 1941 dated 17<sup>th</sup> November 1941 of the High Court of Judicature, Madras is furnished below:

“Section 89(2) of the Indian Registration Act, places on the court the duty of sending a copy of the sale certificate to the Registering Officer within whose jurisdiction any part of the property is situated. When copies of sale certificates are sent to more than one Registering Officer, a note should be added to each copy setting out the other Registering Officers, to whom copies are being sent.”

**(b)** Whenever a copy of a sale certificate is received from a court affecting property in other sub-districts besides their own, Registering Officers shall bring to the notice of the court any cases of omission to communicate copies to the other Sub Registrars concerned that may be noticed in the copy.

**(c)** The instructions in clause (b) apply also to sale certificates received from the Deputy Registrars and Assistant Registrars of Co-operative Societies and Revenue Officers.

**190.** On receipt of a memorandum under order 188(b), a note shall be entered at the foot of the entry of the original document in the Register, referring to the fact of rectification or cancellation and to the page and volume of the file of appeal orders in which the memorandum is filed.

**191.** Memoranda under order 188 shall be transmitted only in cases where a previously registered document is expressly rectified or cancelled by another document.

**192.** The term ‘document’ in section 64 of the Indian Registration Act has been held to include decrees and orders of courts. It is incumbent on Registering Officers, therefore, to forward under sections 64 to 67 of the Act copies and memoranda of

such decrees and orders, when they relate to immovable property to the such officers in whose districts and sub districts the property affected may be situated and also to levy the fees prescribed therefore.

- 193. (a)** A memorandum issued under section 64 to 67 of the Indian Registration Act, shall contain a full and accurate description of all the immovable property situated in the sub district to which it is sent. It is not necessary that every detail given in the document should be repeated in the memorandum, but the description given, shall be sufficient for the identification of property when searches are made for encumbrance.
- (b)** If the property is described in a document by reference to a previously registered document as permitted by Rule 24 of the Registration Rules and if a memorandum containing a full description of the property has already been furnished to an office, it will suffice to mention in the column 'description of property' in the memorandum, the number and year of the document previously registered.
- (c)** When more documents than one affecting the same property are registered at the same time, it will suffice if the full description of the property is given in the memorandum relating to one document and reference as in clause (b) is entered in the memoranda relating to the other documents.
- 194.** When the printed form of a memorandum does not suffice for the particulars to be entered in it, additional forms of thick and durable ledger paper, shall be used as additional sheets in numbering the sheets the number shall be entered at foot so that there may be no confusion between this numbering and the consecutive page numbering while filing memoranda in the receiving office.
- 195.** The standard form of copy sheet in semi-foolscap size shall be used for copies forwarded to Registrars.
- 196.** A copy forwarded under section 65 to 67 of the Indian Registration Act is not a copy of the entry in the register, but a copy of the original document. It shall not therefore contain a reproduction of the footnotes made in respect of the scorings, interlineations etc., in the entry in the register, nor of the signatures of the copyist and examiner of the entry. The notes entered in the copy shall refer only to the scorings, interlineations, etc., occurring in the copy itself and shall be headed 'Interlineations, etc., in this copy'.
- 197.** When a copy is forwarded of a document, which describes the property only by a reference to a document, which has been previously registered in an office different from the office to which the copy is transmitted and if a copy of the previously registered document has not been furnished to that office, a foot-note shall be added to the copy embodying a full description of the property and explaining that this description does not form part of the document.
- 198. (a)** A copy or a memorandum shall be signed by the clerk who prepared the copy or the memorandum, the reader and the examiner and authenticated with date by the Registering Officer and sealed with the seal of the office in which it is prepared.

(b) A memorandum received by a Registrar and transmitted by him to a sub-office in his jurisdiction shall, except in the cases referred to in order 187(a) be sealed also by him before transmission.

199. (a) On receipt of a memorandum under section 65 to 67 of the Indian Registration Act, and under Rule 188(iv) of the Registration Rules a Registrar shall, except in the cases referred to in order 187(a) countersign the memorandum after examining it with copy of the document received. If errors are discovered which can be rectified with reference to the particulars contained in the copy, the Registrar shall rectify them under his initials. Where however, it is necessary to obtain additional information from the officer, who registered the document, the copy or memorandum or both shall be returned to him.

(b) A register in the following form shall be maintained in each Registrar's office to show the several stages in the receipt and disposal of copies and memorandum (sections 64 to 67 of the Indian Registration Act) and of document filed under section 89 of the Indian Registration Act.

**Register of receipt and disposal of copies and memoranda  
(Sections 64 to 67) and documents filed under section 89 of  
the Indian Registration Act, in Registrar's Office.**

Date of receipt	From whom received	Particulars regarding the memorandum, copy or document	Date of			Page and Vol. in which filed with initials and date of the amalgamated Sub Registrar
			Returned for correction	Issue of reminder if any	Received back after correction	
1	2	3	4	5	6	7

(c) The register prescribed in clause (b) shall be maintained separately for each calendar year. Entries of a succeeding calendar year shall not be made in the Register of the previous year.

(d) A register in the following form shall be maintained in each Sub Registry Office to show the several stages in the receipt and disposal of copies and Memorandum.

**Register of receipt and disposal of copies and Memoranda under sections  
64 to 67 and documents filed u/s 89 of the Registration Act**

**Year:**

**Name of Sub Registry Office:**

Serial No.	Date of receipt	Date of Memo	From whom received	Details regarding the memo (such as Doct. No., Year, Book)	Dates of					Details such as No. of Volume and page, where it is filed	Initials of Indexer & SR	Remarks
					Returned for correction (if there be defect)	Reminders if any issued	Receipt after correction	Indexing	Acknowledgement of receipt			

**(e)** As soon as a memo or a copy is received under Sections 64, 65, 66, 67 or 89, necessary entry shall be made by the Sub Registrar himself in column 1 to 5 and the memo and the register handed over to the indexing clerk.

**(f)** The indexing clerk shall ensure that the memo or copy received are indexed and its receipt acknowledged within 3 days from its date of receipt.

**(g)** A copy or a memo shall be accompanied by an Acknowledgement form. The copy or the memo shall be duly acknowledged and returned to the issuing office. The issuing office shall file the acknowledgement along with the original of the acknowledgement kept in the office (Form No.23). The issuing Office must issue periodical reminders if the memo is not acknowledged within 10 days from the date of despatch of the memo.

**200. (a)** When a memorandum or copy received is found to contain a survey number which is shown as subdivided in the subsidiary index, the memorandum or copy shall be indexed against each of the sub-divisions if the extent of the survey numbers as given in the memorandum or copy tallies with the total extent of the several sub-divisions of that number, as shown in the settlement register.

**(b)** If however, the extent does not tally with the total extent or if it tallies with the extent shown in the settlement register, against only one or more of the sub divisions, the fact shall be communicated to the officer who registered the document and the indexing of the document in the subsidiary index, shall be postponed pending receipt of his reply. That officer on receipt of the communication, shall issue a notice to the party concerned, informing him that the description of the property as given in the document, has been reported to the erroneous and advising him to have the error corrected by the execution and registration of a rectification deed.

- (c) The same procedure shall be followed when other discrepancies between the entry of survey numbers in a document and in the settlement registers of subsidiary indexes are noticed.
- (d) When however, a sub-division of a survey number appears in the memorandum or copy when there is no such sub-divisions in the subsidiary index or in the settlement register of the village, the officer who receives the memorandum or copy shall first ascertain from the Tahsildar whether the survey number has subsequently been sub-divided and then if necessary, address the officer who registered the document regarding the rectification of the error.
- (e) The preparation of indexes I and II need not be delayed pending rectification of errors.
- (f) If a party fails to take steps to rectify errors pointed out as above, the officer who registered the document shall intimate the fact to the officer who pointed out the error. The latter may then enter the erroneous number on a separate page which shall be allotted for such erroneous numbers at the end of the sheets containing the subsidiary index of the village and note the document against it with a brief note regarding the error and with a cross reference, when necessary, to other entries in the subsidiary index.
- 201.** Copies of depositions explaining defects or supplying omissions in copies and memorandum of documents forwarded under sections 64 to 67 of the Indian Registration Act, shall be filed in file book I of the office to which they are transmitted.
- 202.** A ferry across a river which divides one sub-district from another shall be treated as lying within the limits of both the sub-districts. Accordingly, when a document relating, to a ferry is registered in one of the sub-districts, a memorandum of, the document shall be sent to the other sub-district levying the requisite memorandum fee.
- 203.** Copies sent under these sections of the Indian Registration Act should be subject to the following rules:
- (1) All pages must be attested by Registering Officer.
  - (2) The office seal should be stamped on all copies on the left-side of the Registering Officer's signature.
  - (3) If a copy contains more than two pages, the total number of pages must be noted above the Registering Officer's signature.
  - (4) The Officer receiving the copy should file it carefully, numbering pages consecutively with the pages already existing on the file the figures used being in English and in the hand writing of that officer and uniform in size as far as possible.

## CHAPTER IX

**Classification of Documents**

- 204. Document and instruments- Differentiation:**— A document is any writing which furnishes proof or evidence, while an instrument is a formal legal writing. Thus while an “instrument” will be necessarily a “document”, a document is not necessarily an “instrument”. According to Section 17 of the Indian Registration Act a document is registrable only if it is executed, and unexecuted document is not registrable.
- 205.** Section 51 of the Indian Registration Act directs that all documents or memoranda registered under sections 17, 18 and 89 which relate to immovable property shall be entered or filed in Book I and that all documents registered under clauses (d) and (f) of section 18 which do not relate to immovable property, shall be entered in Book IV. Besides I and IV, there are the Books II and III; Book II is a record of reasons for refusal to register; while Book III is a Register of Wills and Authorities to adopt. Hence a Sub Registrar has to classify documents brought for registration according to the book in which they are to be entered.
- 206. Book I and Book IV documents- How to distinguish**— All documents that relate to immovable property are to be registered in Book I while documents that do not relate to immovable property are to be registered in Book IV.
- 207. Immovable property:**— Immovable property includes land, building, hereditary allowances, rights to ways, lights, ferries and fisheries or any other benefit to arise out of land and things attached to the earth, or permanently fastened to anything attached to the earth.
- (i) Hereditary allowance:**— A pension or other periodical allowance and hereditary allowances granted in perpetuity is immovable property.
- (ii) Any other benefit to arise and out of land:**— The following are illustrations of the expression:-
- (1) The right to collect market dues upon a given piece of another person’s land.
  - (2) An interest under a deed whereby a person is granted an income in future rents and profits of certain immovable property.
  - (3) A right to collect rents and profits of land that may accrue in future.
  - (4) A right of fishery in waters covering land belonging to another.
  - (5) A right of ferry.
  - (6) A mortgage right over immovable property.
  - (7) A right to future rents and profits in immovable property, but not the rents and profits already accrued due.
  - (8) A right to collect and remove the leaves from trees for a certain period.
  - (9) Right to a hereditary office.
- (iii)** But the following have been held not to be benefits to arise out of land:—
- (1) Right of Government to levy tolls.
  - (2) Claim for maintenance.

- (3) Right to arrears of rent already accrued and profits of land already collected by another person.

**(iv) Attached to the earth:—** Means

- (1) Rooted on the earth as in the case of trees and shrubs.
- (2) Imbedded in the earth as in the case of wells or buildings.
- (3) Attached to what is so imbedded for the permanent beneficial enjoyment of that which it is attached.
- (4) A thing though attached to the earth need not be part of the land to which it is attached; still it is immovable property. Thus a superstructure on land, is immovable property even though the land on which it stands belongs to a third person and even though it may as in the case of a tenant who has put it up, be removable by him.
- (5) A shed resting by its own weight on the foundation prepared for it is not “attached to the earth”.
- (6) Trees rooted in the earth are attached to the earth and are therefore, immovable property. But standing timber, though trees, are excepted from the definition of immovable property.
- (7) A thing imbedded in the earth is immovable property. Thus a house or a hut built on a site with foundation laid on it, is immovable property and cannot be split into its component parts. But a hut which merely rests by its own weight on earth, or a flour-mill which can change hands and can be removed from one place to another, cannot be considered to be immovable property. A sugarcane mill imbedded on land, brick pillars erected on land a well imbedded in the earth are all immovable property.

**(v) Permanently fastened to anything attached to the earth:—** A thing though itself not attached to the earth, will be under the general definition of immovable property if it is permanently fastened to anything which is attached to earth. Thus a machinery permanently fastened to anything which is attached to the earth would be immovable property.

**208. Interest in immovable property:—**

**(a)** An interest in immovable property would be itself immovable property. The following are thus immovable property:-

- (1) The interest of a lessee or tenant on land.
- (2) The equity of redemption of the mortgagor in the mortgage property.
- (3) An easement right.
- (4) A mortgage or charge on immovable property.
- (5) A redemption right in immovable property.
- (6) A right to earth and sand forming part of the soil of the land.
- (7) A right to hold a market on one's land. It is an incident to the ownership of the land.
- (8) A partnership agreement containing a clause that one of the partners should be solely entitled to redeem the mortgaged immovable property belonging to the Partnership was held to be compulsorily registrable under Section 17 of the Registration Act as the right created by the clause is a right in immovable property.

(b) The following are not interest in immovable property and do not constitute immovable property;

- (1) A turn of worship
- (2) The right of management of a Hindu temple.
- (3) The status of a karanavan of a Malabar tarwad.

209. The following are movable property:-

(i) **Standing timber:**— Trees are immovable property whereas standing timber is only movable property. The test to find out whether particular trees constitute “standing timber” will depend upon the intention of parties. If the intention is to enjoy the trees or the fruits thereof without cutting them down, they are not “standing timber” but immovable property. But if the intention is to cut down the trees sooner or later and utilise them for construction and industrial purposes they are standing timber. Thus a fruit bearing tree such as mango tree may or may not be timber according as the intention is to use its wood as timber or use it only for purposes of enjoying its fruits.

(ii) **Growing crops:**— (a) Growing crops will include all vegetable growths whether in the form of fruit, leaf, bark or root. Plants which have no recognised existence apart from the produce also constitute growing crops. Thus pan creeper and sugar cane crops are growing crops. A crop must be in existence or should be growing or in the process of coming to fruition to come within “growing crops”. Thus mortgage of Indigo crops that may be grown in future on certain land was held only to be an agreement to mortgage movable property that may come into existence in future.

(b) A right to cut the leaves of plants that may hereafter form on the land and a right to take out lac from trees which involves cutting off of twigs of certain trees were held to be rights in immovable property as the leaves which did not exist and the lac which the excretion of an insect on the trees are not growing crop or juice in trees.

(iii) **Grass** would mean only grass intended to be cut from the land immediately and not grass which may attain further growth.

(iv) **Fruit upon trees:**— The word growing does not qualify fruit as in the case of crops and the expression would therefore, not include fruits that may form on trees in future.

(v) **Juice in trees:**— A right to the juice in trees such as toddy, rubber, etc. will be a right to movable property. Juice in trees will include gum of trees but not lac which is the excretion of an insect on the tree.

210. **Example of documents registrable in Book I:**—

(a) On the application of the foregoing principles, the following documents are registrable in Book I, as relating to immovable property;

- (a) Lease of ferries.
- (b) Lease of fisheries.
- (c) Agreements securing the right of water running through channels.
- (d) Agreements and releases for transferring revenue registry of lands.



- (e) Agreements varying the terms of tenancy with reference to the amount of rent to be paid.
- (f) Deeds declaring the fact of adoption and creating for the adopted son rights in immovable property.
- (g) Documents relating to oil mills or other machinery permanently attached to the earth.
- (h) Documents relating to walls and roofs of houses which are not intended to be detached from the building and treated as materials.
- (i) A bond whereby the executant borrows from the claimant a sum of money and agrees to pay the produce of certain specified lands in lieu of interest thereon.
- (j) An undertaking to cultivate.
- (k) Receipt of part-consideration money set apart for future payment in a previously registered deed relating to immovable property.
- (l) A receipt back of money paid as an advance under an agreement to sell, in case, it was drawn up when the proposed seller ostensibly declines delivery of the property. [Section 55(6)(b) of the Transfer of Property Act.]
- (m) Receipt of money due under a partition, provided the money is not already acknowledged to be satisfied by way of pro-note in the partition deed itself,

**(b) Example of documents registrable in Book IV:—** The following documents are registrable in Book IV, as not relating to immovable property:—

- (a) Agreements for the—
  - (1) Collection of minor produce of
  - (2) Usufructs of trees and topes such as toddy and fruit shall be treated as leases, for stamp purposes.
  - (3) Receipt of future rent due under a Kanam deed.
- (b) The undermentioned classes of Government Forest agreements do not relate to immovable property and are registrable in Book IV.
  - (1) Contract for cutting and removing trees.
  - (2) Contract for the collection, removal and disposal of stock subject to obligation to coppice and clear the area.
  - (3) Contract for the purchase of timber/firewood to be felled / cut departmentally.
  - (4) Contract for the felling/cutting and purchase of timber/firewood.
- (c)
  - (1) An agreement to dig a channel or trench which is a mere contract for service.
  - (2) A bond whereby a valuable security such as a mortgage deed is pledged for a loan without the intention of creating an interest in the immovable property referred to in the mortgage deed.
  - (3) Powers of attorney, even when they relate to management of immovable property.
  - (4) A receipt acknowledging payment of arrears of rent or of future rents.
  - (5) A transfer of arrears of rent due under a lease.
  - (6) An agreement to abide by the decision of a panchayat or arbitrators.

- (7) A transfer of a share in a Chit Fund in which the manager has pledged immovable property as security for the due performance of his engagement.
- (8) A document evidencing a declaration of trade mark.
- (9) A document acknowledging the receipt of money due from one person to another on unsecured bonds and pronotes, but paid to the latter by the assignee of immovable property, belonging to the former person, provided a specific charge has not been created over properties in the assignment deed, for the amount set apart.

211. **Compulsory and optional registrable documents:**— Section 17 of the Indian Registration Act deals with documents which are compulsorily registrable; while section 18 of the Act deals with documents which are optionally registrable.

In deciding whether a document is to be compulsorily registered or not, one has to take the document as a whole and construe it with reference to its terms. What has to be looked at is the immediate intention of the document, i.e., the intention as gathered from its terms and not its ultimate results, or the intention of the parties apart from the terms used by them. Thus a deed of adoption of a boy by a Hindu cannot be said to purport or operate to create an interest in immovable property since as a consequence of the adoption the boy may become entitled to immovable property.

212. **Clause I(a) of section 17 of the Indian Registration Act:**— Instruments of gift of immovable property are compulsorily registrable and not instruments of gift of movable property. Thus a gift of immovable property in writing is compulsorily registrable under clause (a) whatever the value of the property gifted and an instrument of any other category of such property will be compulsorily registrable under clause (b) only if the value of the property affected, is hundred rupees or upwards.

213. **Clause (b) of section 17(1) of the Indian Registration Act:**—

(a) Provides that all non-testamentary instruments which purports or operate to create, declare, assign, limit or extinguish whether in present or in future, any right, title or interest whether vested or contingent of the value of one hundred rupees or upwards in immovable property are compulsorily registrable.

(b) **Of the value of one hundred Rupees and upwards:**— The value referred to as such in the preceding para is the value of the right, title or interest over immovable property on the date of execution of the document. If on such date, its value is Rs. 100 or more, the document is compulsorily registrable; otherwise not. Where the consideration for a deed is entered in the deed in terms of money, the question of liability to registration must be determined only with reference to the amount so entered and not the real value of the property. The value of an assignment of a mortgage is the consideration for which it is assigned. The transfer of property of the value of more than Rs. 100 in consideration, of a dower debt of less than Rs.100 need not be registered. But where the dower fixed is not money but the property itself, a transfer of such property in lieu of the dower must be registered if the value of the property is Rs. 100 or upwards.

(c) For the purpose of determining whether a document is compulsorily or optionally registrable, the value of the immovable property alone affected by the

deed, shall be taken into account, for instance if a house worth Rs.50 and jewels worth Rs.1,000 are given to a woman for maintenance, the maintenance deed is optionally registrable in Book I, though its total value is Rs.1,050.

**214. (a)** A receipt granted for payment of consideration in part or in whole, in respect of a sale, mortgage or similar document of the value of one hundred rupees and upwards is under section 17(1)(c) of the Indian Registration Act, compulsorily registrable even when the amount acknowledged is received is less than Rs.100 and a receipt falling under section 18(b) of the Indian Registration Act is optionally registrable even though by reason of interest having been charged on the deferred payments or otherwise, the sum acknowledged by the receipt as actually paid amounts to one hundred rupees and upwards.

**(b)** Thus a receipt for Rs.50 being a portion of consideration for a sale for Rs.200 is compulsorily registrable under section 17(1)(c) of the Indian Registration Act and a receipt for Rs.102 due on account of the consideration for the sale for Rs.90 the sum of Rs.102 being made up of Rs.90 plus interest up to date of payment is optionally registrable under section 18(b) of the Act.

**(c)** A partition deed shall be treated as compulsorily or optionally registrable with reference to the value of the entire property forming the subject of division though the value of the separated shares alone is taken as the value for the levy of registration fee.

**215. *Clause (c) of section 17 of the Indian Registration Act:***— Clause (b) of section 17 applies to instruments which in themselves purport or operate to create, etc., any right, title or interest in immovable property of the value of one hundred rupees or upwards. This clause refers to a class of instruments which though not purporting or operating themselves to create, etc., any such right, title or interest, are nevertheless compulsorily registrable. It provides that an instrument acknowledging the receipt of payment of consideration on account of the creation, etc., of any such right, title or interest is compulsorily registrable. In other words, this class of documents are compulsorily registrable if the original documents to which they relate to, are compulsorily registrable; if but original documents are only optional, the subsequent receipts are also optional.

***Illustrations:***

(1):- A transfers immovable property to B on a particular date for over Rs.100 and B subsequently pays the said amount or part thereof to A and A grants a receipt to B for the amount stating the amount as having been paid on account of the transfer. The receipt is compulsorily registrable.

(2):- A executed a sale deed for Rs.75 in favour of B. B does not pay any amount to A at the time of the deed but pays the amount with interest after some time; A grants a receipt to B and even if the amount exceeds Rs.100 the receipt is not compulsorily registrable.

**216. (a) *Leases:***— Clause (d) of section 17(1) of the Indian Registration Act provides that leases of immovable property from year to year or for any term exceeding one year or reserving a yearly rent, are compulsorily registrable. The deciding factor to make a lease deed compulsorily registrable or not, depends on its term or reservation of rent and not on the value as in the case of clauses (b) and (c) of section 17 of the Act.

(b) **“Year to Year”**:— A tenancy from year to year is intended to go on indefinitely, till it is terminated by a proper notice at the end of any year or tenancy. It is a single lease for the whole period till it is terminated not a succession of leases each for a year. A document which merely allows a person to take possession of land and cultivate it, is not a lease from year to year or for a term exceeding one year or reserving a yearly rent and is not therefore compulsorily registrable.

(c) The term of the lease is to be determined from the document construed in the light of surrounding circumstances. Where no period is specifically fixed, but there are words indicating the period in general, the period of lease for the purpose of registration must be taken to be the period during which the lessee is protected from dispossession at the will and pleasure of the lessor or the length of time for which the lessee is entitled to continue in possession provided he himself fulfils all the stipulated conditions. Where even though a term is fixed, the tenancy can, under the terms of the documents be put an end to at any time by notice or otherwise the lease is not for a period exceeding one year for the purpose of registration. On the other hand, where the period fixed to the lease exceeds one year, the mere fact that the lessor has right of re-entry within one year, if he commits a breach of the conditions of the lease, does not make the lease for a period less than one year.

(d) **“Agricultural lease”**:— An agricultural lease may be made orally or in writing. But if made in writing it would require registration if the period is that specified in clause (d) of section 17 of the Indian Registration Act. Otherwise registration is not necessary.

(e) Leases by Government are exempted from registration under clause (d) of subsection (1) of section 90 of the Indian Registration Act as the words sanads, inam title deeds and other documents etc., would include leases also. It is only a lease of land that is exempted. A lease of building though made by Government is not within that clause and is not exempt from registration.

**217. Clause (e) of section 17 of the Indian Registration Act:**— A decree creating a charge creates a right in immovable property and an assign thereof is within this clause.

A transfer of court decree, valuing Rs.100 or more has to be registered compulsorily.

**218. Clauses of documents compulsorily registrable:**—

(a) The following are certain classes of documents compulsorily registrable under the Registration Act:—

- (1) All gift of immovable property.
- (2) All leases relating to immovable properties, for a period exceeding one year, or reserving an annual rent. A tenancy from year to year or lease for not any definite term, is intended to go indefinitely and therefore to be viewed as a lease for more than one year.
- (3) A decree or order of a court which has the effect of creating a gift as contemplated in clause (c) or a lease specified in clause (d) of section 18 of the Indian Registration Act (that is a lease which creates assign any right in immovable property.)
- (4) A sales certificate of value of Rs.100 or more issued by an authority other than a civil court or Revenue Officer such as official receivers.

- (5) Partnership deeds or dissolution of partnership which consists of specific immovable properties; the immovable property being valued at or more than Rs. 100.
- (6) Family agreements and compromises which clearly defines the title of parties over specified immovable properties valued at or more than Rs.100.
- (7) Cancellation and rectification deeds of documents which are compulsorily registrable.
- (8) Powers of attorney which purports to create an interest over immovable properties valuing Rs.100 or more.
- (9) A document creating an easement right for a consideration of Rs. 100 or more.

**(b) Clauses of documents optionally registrable:—** Following are certain categories of documents, the registration of which is optional-

- (1) Lease deeds for periods not exceeding one year.
- (2) All transactions relating to immovable properties the value of which is below Rs.100.
- (3) A sale certificate granted by a Civil Court or Revenue Officer.
- (4) Agreements to sell immovable properties.
- (5) Cancellation and rectification deeds of documents which are optionally registrable.
- (6) A document executed by a person giving up his right of inheritance to a living persons' property.

**219. (a)** All documents which do not affect any right, title or interest over specified immovable properties are registrable in Book IV and all categories of documents registrable in Book IV are optionally registrable.

**(b)** Wills and authorities to adopt are registrable in Book III. Wills are optionally registrable whereas a written authority to adopt, not conferred by a Will, is compulsorily registrable. Authority to adopt conferred by a Will need not necessarily be registered.

## CHAPTER X

**The nature and valuation of documents**

**220. Nature of documents:**— In determining the nature of a document for assessment of stamp and fee, a Registering Officer need not go beyond what is expressed on the document. He is not bound to consider the effect or implications thereof. Examples of certain doubtful cases, regarding nature are furnished below:

- (1) A cancellation of a previously registered cancellation deed is only a cancellation.
- (2) Documents executed by contractors for the removal of street sweepings dumped in the rubbish depots of a local board for a sum of money payable to the Board even if an amount is deposited with the Board as security for the due performance of the contract shall be treated only as agreements.
- (3) **Dissolution of partnership:**— The exact nature of documents purporting to evidence a “dissolution of partnership” whereby one or some of the partners in a firm sever their connection with the firm depends on the actual wordings of the documents and the circumstances of each case.
- (4) Gift has not been defined in the Kerala Stamp Act; but the term settlement has been defined in section 2(q) of the Kerala Stamp Act. The words “for the purpose of providing for some person dependent on him” in the above definition are wide enough to make a disposition of property, in favour of any person whether he is a relative or not. [Government letter No.17767/E-2/73/TD dated 14-1-1975].

Where the interest secured in a lease deed is transferred by the lessee voluntarily and without consideration to his sister, out of affection towards her, the document embodying the transfer is a “gift of interest in a lease”.

- (5) A document worded as a perpetual lease and giving an option to the lessee alone to surrender the lease, should he chooses to do so, shall be treated as a perpetual lease.
- (6) Leases of usufructs in respect of single crop, plants like plantain and sugarcane (where the plants perish with the crops) should be treated as sale of crops and not a lease.
- (7) A document by which the claimant is given possession of lands belonging to the executant on condition that the claimant cultivates the lands and raises certain trees thereon and that when the trees commence to bear fruit, the executant shall receive a portion of the usufruct, falls under the category of a lease as defined in the Indian Registration Act.
- (8) A document whereby the executant undertakes to occupy the house of the claimant for a certain period and look after the trees in the compound receiving a remuneration therefore from the claimant, is a lease.
- (9) A document evidencing a surrender of the right obtained by a lease the term of which has expired, should be treated as a surrender to lease and not as a release.
- (10) Property forming the subject to division among co-partners may include money and securities not converted into cash. So long as the share taken by a co-partner forms a portion of the family assets, the transaction constitutes a

division of the family property and the instrument which records it falls under the definition of 'instrument of partition' provided all the co-owners concerned are equally bound by the instrument either by itself or read together with one or more similar instruments.

**221. (a)** The wordings "single transaction" used in article 44 of the Kerala Stamp Act, will apply either to a single act or acts, so related to each other as to form only one judicial transaction. For e.g., when the principal authorises his agent to do all acts necessary to complete a mortgage or sale of a particular property, it need be viewed only a single act.

**(b)** When the agent is authorised to do all things and to take all steps which may be necessary to complete the execution of a decree, it should be regarded as a general power as the acts to be done in the above connection are varied.

**222.** The following extract from the Supreme Court Ruling (S) A.I.R. 1956 S.C.35 (V.43 C 10 Jan.) from Calcutta A.I.R.1952 Cal.815(S.B.) 4th October 1955 regarding the nature and scope of powers of attorney executed in different capacities is reproduced below:

**“**When two persons join in executing a power of attorney, whether it comprises distinct matters or not, will depend on whether the interests of the executants in the subject matter of power are separate or joint. Conversely if one person holding properties in two different capacities each unconnected with the other, executes a power in respect of both of them, the instrument should logically be held to comprise distinct matters.

**When** a person possesses both in personal capacity and a representative capacity such as trustee and there is a delegation of power by him in both those capacities, the position in law is exactly the same as if different persons join in executing a power in respect of matters which are unrelated. There being no community of interest between the personal estate belonging to the executant and the trust estate vested in him, they must be held to be distinct matters for purposes of section 5, the position is the same when a person is executor or administrator, because in that capacity he represents the estate of the deceased, whose persona is deemed to continue in him for purposes of administration.

**A** was the managing director of two companies which were acting as managing agents of several companies. He was also a director of a number of companies and has on occasions acted as liquidator of some companies as executor or as trustees of various estates. He executed a power of attorney by which he empowered two persons jointly and severally to act for him in his individual capacity and also as executor, administrator, trustee, managing agent, liquidator and all other capacities. Held that the instrument comprises distinct matters in respect of the several capacities of 'A' mentioned therein for purposes of section 5 of the Stamp Act and the instrument was held chargeable with the aggregate amount of duty payable if separate instruments were executed in respect of each of those capacities.”

But it should be remembered that unless distinct interests are clearly represented by the wording of the document, it may not be proper to view the power as falling under section 5 of the Stamp Act, since a matter outside the wording of the document cannot influence its assessment.

**223. Rectification deeds:**— A document which purports to supply the omission of attestation in a previous mortgage deed should be treated as a rectification deed.

**224. Settlements and Wills:**— One of the invariable tests in coming to a conclusion as to the testamentary character of a paper is whether the paper is revocable. If it is not revocable, the document is not a will.

Where the document contains provisions which are not of an ambulatory character the presumption will be against the testamentary nature of the document and the fact that such provisions are expressed to operate in the future will not affect the nature of the document.

The reservation of a life interest does not of itself suffice to make the document testamentary.

Accordingly, the undermentioned document was held to be a settlement and not a Will:-

A deed in form purported to be an agreement and was registered. It contained no clause of revocation and declared that the executant's future debts would not be binding on the properties, and the instrument went on to provide "after my life-time both of you wife and daughter-in-law shall not only get the right due to me in the said land but also divide and enjoy in equal shares the income".

**225.** "Will means the legal declaration of the intentions of the testator with respect to his property which he desires to be carried into effect after his death."

The tests of a valid Will are:—

- (i) existence of intention to take effect after the death of the testator;
- (ii) execution in accordance with the formalities prescribed by law;
- (iii) revocability; and
- (iv) existence of some disposition of property or money.

The third test, i.e., 'revocability' or 'being revocable' is independent of anything that may be done by the testator. If the others are satisfied the third necessarily follows. Hence any instrument executed in the manner required by law and disposing of property may take effect as a Will provided the intention is that it should not operate during the lifetime of the testator.

**226. Valuation of documents:**—

**(a)** Unless otherwise directed the principle adopted for determining the value for the purpose of stamp duty shall be adopted in assessing a document to registration fee.

**(b)** A document so framed as to come within two or more descriptions shall, where the fees chargeable thereunder are different, be chargeable only with the highest of such fees.

**(c)** Penal clause shall be left out of account in assessing a document to registration fee.

**227. (a)** When the value of a petty transaction cannot be determined precisely, the parties shall be advised to enter the approximate value and it shall be explained to them that otherwise they are liable to be charged the maximum fee of Rs.20.



- (b) The parties to an agreement regarding the use of a wall or well shall be advised to insert in the document the approximate value of the wall or well and the registration fee shall be levied with reference to such value. If however, the parties decline to insert such value, the document shall be treated as unvalued and charged accordingly.
228. In estimating the number of words for which copying fee has to be levied for a district copy or for a certified copy of a document applied for, at the time of registration, the probable number of words in the registration endorsements and the stamp vendor's endorsements should be added to the number of words in the document.
229. **Abkari engagements:**— The registration fee for an abkari engagement whether attested or not shall be calculated on the amount which the shop keeper binds himself to pay.
230. **Adoption deeds:**— A fixed fee of Rs.20 under article V(2) of the table of fees shall be levied for the registration of an adoption deed, whether or not, the deed refers to immovable property to which the adoptee becomes entitled.
231. The registration fee payable for a declaration of trade mark shall be Rs.20 under article I(t) of the table of fees.
232. On an agreement to sell or re-sell the registration fee shall be levied on the advance or earnest money and not on the intended sale amount. If however no advance or earnest money is mentioned in the document, the fee shall be levied in an agreement to sell on the intended sale amount, and in an agreement to re-sell on the consideration for the original sale or re-sale whichever is higher.
233. The registration fee on an agreement which varies terms of a previously registered mortgage deed shall be levied on the value of the original deed, subject to a maximum of Rs.15.
234. **Agreements to live as husband and wife and deeds of divorce:**— These documents are not susceptible of money valuation and are therefore to be assessed to registration fee under article I(t) of the table of fees. Payment in any form by either party in cash or kind, whether expressed as consideration or otherwise, shall be ignored. Where however any provision is made in such a deed such as maintenance, annuity or settlement or any relinquishment is made, it shall be construed as distinct matters for purposes of stamp and fees.
235. **Appointments in execution of power:**— An appointment in execution of power is not susceptible of money valuation and accordingly a fee of Rs.20 under article I(t) of the table of fees should be levied in respect of documents of this kind.
236. **Cancellation of Wills:**— The fee for a deed of cancellation of a Will shall be Rs.500.
237. **Chitty and kuri agreements:**— The fees to be levied for a chitty or a kuri agreement or for a security bond executed by the manager of a chit fund or a kuri shall, when no consideration is specifically mentioned in the document be calculated on the value of the full amount of subscriptions payable by the members of the association periodically whether fortnightly, monthly or annually.
238. **Contracts for the collection of minor produce:**— In assessing the registration fee on contracts for (i) the collection of minor produce such as *tangedu* or *avaram* bark; or

(ii) the usufructs of trees and topes such as toddy and fruit, the value shall be calculated on the principle laid down in order No.226(a).

- 239. Counter-part:**— Article I(p) of the table of fees specifically states that the counter-part of a document shall be admitted to registration on concessional rate only when the presentation and registration of the original and its counter parts go together, simultaneously, i.e., one after the other in immediate consecutive succession. Registration of a document or documents in between such documents will render the deed ineligible for concession in fee.
- 240. Leases:**— In the case of an agricultural lease in which a percentage of the produce is reserved as rent and the quantity of the produce or the value thereof is not specifically stated, fee shall be levied under article I(t) of the table of fees.
- 241.** Where in a lease the lessee undertakes to effect improvements by way of addition to the buildings, etc., the value of the improvement should be deemed to be a premium and added to the annual rent for assessing the registration fee payable. This principle is applicable for stamp purposes also.
- 242.** A lease for an indefinite terms should whether the rent is stated to be payable daily or monthly or otherwise, be stamped and assessed to registration fee on the average annual rent.
- 243.** Mining leases containing a clause embodying an agreement to sell machinery, buildings, etc., that may be erected on the leased premises shall be treated as evidencing two transactions requiring the total of the fees leviable for a lease and an agreement to sell and if no value is given regarding the latter, a fee of Rs.20 under article 1(t) of the table of fees shall be levied for the agreement.
- 244.** Where a lease is worded in such a manner as to show that the lump sum paid is the rent due for the whole period of the lease paid in advance, such payment will not alter the nature of the document, and therefore it should be viewed as a lease only.

“But rent can be stated to have been reserved in a lease only if rent is paid by the lessee to the lessor at the stated periods or specified occasions mentioned in the lease deed. If the lessee therefore pays an amount in respect of the rent, prior to the stated period or occasion, that payment is nothing more than an advance made by the lessee to the lessor. Accordingly, if rent is paid at the stated occasions (monthly, quarterly, annually etc.) lease is to be classifiable under Article 33(a) of the schedule to the Kerala Stamp Act, and if the whole amount of rent is received in advance in one lump sum, the lease is to be classified under Article 33(b)”.

- 245. (a)** A lease with sale of improvements should be viewed as distinct matters as lease and sale of improvements for the purpose of levying stamp and registration fee.

**NOTE:**— An agricultural lease with premium or fine shall be treated as non-exempted leases for purposes of stamp.

**(b)** Transfers of leases shall be assessed to registration fee on the amount of consideration inclusive of value of improvements if any and if no consideration is expressed on the value of the original lease. The payment by the transferee to the transferor (lessee) of an amount equivalent to the advance money if any, paid by

the latter to the lessor on the original lease is “consideration” for the transfer within the meaning of this order.

(c) When only a portion of the leasehold right is surrendered without consideration fee shall be levied on the value of the original lease.

(d) In the case of documents wherein no consideration is expressed, as distinguished from documents of indeterminate value and where such documents are only chargeable to the minimum stamp duty leviable under the schedule, the fee for registration of such documents shall also be the minimum under the table of fees.

246. (a) A kanom deed containing an acknowledgement of receipt of the value of an improvement has been held to be a mortgage with possession and in calculating the consideration the ascertained amount of compensation for the improvements shall be included.

(b) The provision for compensation for improvements in reconveyances and releases and surrenders and transfers of leases shall accordingly be taken into account in calculating the value in assessing the registration fee.

(c) Transfers of several mortgages to the same claimant by one instrument is chargeable with a single registration fee on the aggregate amount, though chargeable to stamp duty under section 5 of the Kerala Stamp Act.

247. *Partition deeds and dissolution of partnership:—*

(a) (i) In the case of a partition deed or of an award by means of which property is divided, the net value of the property (i.e., the gross value minus such encumbrances as are charged specifically on it) shall be taken as the value for registration purposes.

(ii) In the case of a dissolution of partnership, the net value of the partnership property (i.e., the gross value minus the joint debts due from the partnership) shall be taken as the value for registration purposes. If the net value of the whole property is not expressed, but only that of a specified share or of shares which bear a definite proportion to the entire partnership property, the value of the partnership property shall be calculated from that of the part. Where however, the value expressed is that of an indeterminate share or shares, the registration fee on the dissolution shall be levied in the manner laid down in the last clause of article I(t) of the table of fees.

(b) This principle is however not applicable to settlements and Wills.

(c) In the case of settlements fee is leviable on the value of the property settled, inclusive of all encumbrances and liabilities specially made payable by the beneficiary. However, in cases where payments are to be made to the settler himself or to his relations by way of annuity, such payments shall not be added to the value of the property settled for assessing the registration fee.

248. Article I(h) of the table of fees requires that the value of the separated share or shares on which stamp duty is payable, shall be taken as the value. In determining the value of a separate share, the principle explained hereunder shall be applied.

- (i) The share should relate to the property which the co-owners divide or agree to divide in severality.
- (ii) Property which the co-owners agree to divide in severality at a future date should be included in the calculation.
- (iii) Property wholly set apart for such purposes as the maintenance of parents and the marriage of minors, is not property which the co-owners divide or agree to divide in severality.
- (iv) The value of the share not of the property should be taken into consideration.

**Illustration (i):**— A, B and C enter into an agreement for the division of property of the value of Rs.1,000 setting apart property of the value of Rs.300 for their common enjoyment and dividing the remainder in severality, A's share being worth Rs.300, B's Rs.200 and C's Rs.200.

The value of the property set apart should be excluded from the calculation of the total value of property.

**Illustration (ii):**— A and B enter into an agreement for the division of property worth Rs.1,000 stipulating that a portion worth Rs.200 shall be settled on their mother and the remainder divided in equal shares.

The value of the property settled on the mother should be excluded.

**Illustration (iii):**— In the case cited in illustration (ii) the co-owners, agree that the property settled on the mother shall be for her life-time and that after her death shall be divided in equal shares.

The property settled on the mother is property which the co-owners agree to divide in severality and its value should be included.

**Illustration (iv):**— In the case cited in illustration (ii) the co-owners do not specify how the property settled on the mother shall be divided after her death.

The property settled is not property which the co-owners agree to divide in severality and should be excluded.

**Illustration (v):**— A partition of properties commonly owned by all the executants and of some properties owned exclusively by some of them only should be valued separately and viewed as two transactions.

**Illustration (vi):**— A and B enter into an agreement for the division in equal shares of property of the value of Rs.1000. A takes property worth Rs.800 and pays Rs.300 in cash to B who takes property worth Rs.200.

The value of the share (Rs.500) and not of the property should be taken into consideration. The amount to be paid in cash to equalise share value should not be added to the total value of the property forming the subject matter of division.

**NOTE:**— The Board of Revenue (Madras) has held that in determining the stamp duty leviable on partition deeds containing dispositions in favour of relations or dependants, the criterion should be whether the provision is essential to the partition and where it is not essential the document should be treated as a settlement also under section 5 of the Stamp Act. Provision for maintenance of

parents, etc., should be assessed to stamp duty as settlement only when such provision is not essential which will depend on circumstances of each case.

**249.** A few illustrations of “*distinct matters*” and matters which are “*not distinct*” are given below:

- (1) A power of attorney by a mother in her personal capacity and also in the capacity of the guardian of her minor child in respect of joint interests and separate interests should be viewed as comprising distinct transactions and charged accordingly.
- (2) A partition of properties commonly owned by all the executants and of properties owned by some of them only should be valued separately and viewed as separate transactions.
- (3) A sale with indemnity or a sale with transfer of indemnity is chargeable with the higher of the two duties for stamp purposes, but fees should be levied on the higher of the two amounts.
- (4) A transfer of agricultural lease right (exempt from stamp duty) with indemnity in respect of the right transferred is chargeable to stamp duty on the indemnity amount only, but registration fee is leviable on the higher of the two amounts.
- (5) A transfer of lease with transfer of arrears of rent in respect of the same property shall be treated as a single transaction and fee levied on the aggregate of the amounts.
- (6) A transfer of mortgage with possession or a transfer of kanam with transfer of arrears of rent in respect of the same property is a single conveyance chargeable with registration fee on the aggregate amount.
- (7) A release and transfer of arrears of rent in respect of the same property is single release for the entire amount.
- (8) In the case of surrenders of two or more items of properties obtained under two or more oral leases, section 5 of the Kerala Stamp Act will come into operation if such leases are chargeable to stamp duty, if put in writing and will be charged accordingly for purposes of registration fee.

**250. *Rectification deeds:***— A deed of rectification which by itself creates transfers, limits, extents, extinguishes or records rights shall, for purposes of stamp be treated as taxable under the item of the schedule under which it falls. In such cases when the consideration for the transaction is expressed, the stamp duty as well as the registration fee shall be levied on the amount of the consideration so expressed. Where no consideration is expressed, the value of the right dealt with as shown in the document, shall be taken. If however, neither the consideration nor the value is expressed, the value and the fee to be levied, shall be governed by article I(t) of the Kerala Table of Fees.

**251. *Releases:***— In a release deed previous payments mentioned should be taken into consideration in assessing the registration fee, as the relinquishment is made because of the receipt of the entire amount.

- 252. Sales:**— A sale deed falling within the proviso to the explanation in section 25 of the Kerala Stamp Act shall be assessed to registration fee with reference to the total consideration for the sale including the mortgage debt discharged thereby.
- 253. Receipts:**— In calculating fee for receipts, amounts stated as excused should, also be included.
- 254. Security Bonds:**— Security bonds executed under the provisions of any law or under the orders of the Government of India or of any State Government for the performance of any public duty or act in which the public are interested sometimes contain, besides the usual declaration that the executants bind themselves in a certain sum, a proviso naming (i) another sum, which may be equal to or higher than the amount named in the declaration, as the maximum amount recoverable upon breach of the conditions or (ii) a sum as the amount recoverable upon such breach in addition to that mentioned in the declaration. In assessing the registration fee on such documents, the maximum amount recoverable, which in the first case is the penal sum mentioned and in the second case the total of the amounts mentioned shall be taken as the value of the document.
- 255. (a)** The term 'one half of all fees' referred to in clause (b) of Notification No.Ms.795/60/Agri., dated 8<sup>th</sup> October 1960 applies to all fees under the Law of Registration including-
- (1) Fees for attendance at private residence, commission and the service of a female attendant at a private residence.
  - (2) Fees for appeals and enquiries under sections 35, 40, 41, 72 and 73 of the Indian Registration Act.
  - (3) Fees for attestation of power of attorney.
  - (4) Fine for late presentation and admission and safe custody of documents.
  - (5) Fees for memoranda and filing translations.
  - (6) Fees for copies of documents under section 65 of the Indian Registration Act.
  - (7) Fees for excess pages used in copying in registers.
  - (8) Fees for attested copies of documents and searches antecedent thereto.
- (b)** Remission granted under clause (c) of Notification No.Ms.795/ 60/Agri., dated 8<sup>th</sup> October 1960 applies in respect of applications from Co-operative Land Mortgage Banks for encumbrance certificates in connection with loans not exceeding Rs.2,000 whereas concession granted under clause (d) of the said Notification applies to applications for encumbrance certificates in connection with loans exceeding Rs.2,000 but not exceeding Rs.5,000.
- (c)** Searches in respect of loans exceeding Rs.5,000 are not eligible for any sort of concession whatsoever and applications for such searches may be treated as on par with ordinary applications for general searches.
- (d)** Concession in search fee under clause (c) and (d) of Notification No.Ms.795/60/Agri., dated 8<sup>th</sup> October 1960 can be given irrespective of the fact

whether the application comprised properties situate in more than one village or results of the search disclosed more than one ownership.

- 256.** The concession in regard to stamp and fees leviable as per Notifications on the subject are not extended to documents executed by non-members in favour of Co-operative Societies or Land Mortgage Banks even if presentations are made by the Presidents or Officers of such societies or banks.

## CHAPTER XI

**Receipts for documents and fees, and Return of documents**

- 257. Receipts:**— Receipts for documents and fees shall be prepared by the Registering Officer himself in Form No.18. The receipt shall be issued to the party concerned, as soon as a document is accepted for registration or a fee is paid. Separate volumes of receipt books need not be maintained for issuing receipts, for documents and fee realised thereof and for fees levied under other items such as encumbrances certificates, certified copies, etc.
- 258. (a)** For attendance at private residence separate receipts shall be issued for- (1) attendance fee and (2) registration fee.
- (b)** Receipts for private attendance fee shall be issued before proceeding to the residence. Besides the attendance fee, the travelling allowance of officers and batta for peons, if any realised shall also be included in the receipt.
- (c)** For documents and fee realised at the residence, provisional receipts as indicated in Registration Rule 123, should be issued (Form No.86.) which should be got back from the parties at the time of issue of the regular receipt. In case the provisional receipt is stated to be lost, a procedure as prescribed in Registration Rule 119(i) shall be followed.
- 259.** The total amount of the fees levied shall in all cases be noted in figure as well as in words. The printed serial number of every fee receipt shall be duly noted against the corresponding entry of fee in accounts (in the remarks column or any other column provided for the purpose), as cross reference.
- 260. (a)** Receipts for documents shall be granted in the serial order of the number assigned to documents.
- (b)** When a number is assigned to a pending document in respect of which a receipt has already been granted the serial number assigned to the document shall be noted in the receipt wherein the number was originally noted) and in order to explain the gap in the serial numbers at the place where this regular number ought to be, a note referring to the receipt already granted shall be entered at the top of the counterfoil of the next receipt thus:
- For No....., see counterfoil No..... of this Vol. No. ....
- 261.** Application for transfers of patta (pokkuvaravu applications) or notice to Local Bodies if any, presented with the document, shall also be indicated in the heading portion of the receipts.
- 262.** The address of a person nominated to receive a document shall be recorded on the counterfoil, in order that in the event of his failing to appear he may be communicated with. A presentant is not authorised to revoke a nomination already effected before the expiry of seven days. Only in cases where a nominee fails to take back the document within seven days as provided for in Rule 120(1) shall a presentant revoke the nomination and either get back the documents



himself or make another nomination. Parties should be advised not to nominate document writers to receive back documents after registration.

**263. *Delivery of Receipts and Documents:—***

(a) Receipts and documents shall be handed over to the parties by the Registering Officer himself.

(b) When the presentant of a document is alive, the document shall not on any account be returned to the claimant without the written consent of the presentant.

(c) If the presentant is dead a document shall not be returned to claimant without the consent of the legal representative or representatives of the presentant.

(d) If the presentant has nominated a person to take back his document after registration and in case such nominee is dead, the document shall not be returned to the nominee's representative without the written consent of the presentant.

(e) If the presentant of a document is dead and has not nominated any person to take delivery of the document, any person claiming delivery of it should be required to prove his title by the production of an order from a competent court entitling him to the delivery of the document, especially in cases of doubtful and or complicating claims for the possession of the documents.

**264. (a)** The return of a document is a duty laid upon the Sub Registrar under section 61(2) of the Indian Registration Act and is a proceeding under the Act. Therefore the date of return with relevant details (such as the name of the recipient) shall be noted at the close of the endorsement made on the document and copied at foot of the concerned entry in the register volume at the time the document is actually returned.

**265. *Return of Documents by Posts:—***

(a) All documents attested powers of attorney, encumbrance certificates and certified copies to be returned by post shall find an entry in Account E (Form No.64).

(b) The above account shall be treated as a subsidiary despatch register.

(c) In a sub-office, the above register shall be maintained by the Registering Officer himself. Covers containing such documents shall neither be entered in the ordinary despatch register, nor they be passed on to the despatching clerk. Every such cover shall be sent by registered post with acknowledgment due by the Registering Officer himself.

(d) The cash collected from parties as postal charges for the above purpose shall be ledgered in Account 'C'.

(e) Service stamps shall not be used for returning documents, etc., by post. The amount collected to cover postage shall be at first credited in Account 'C' and when the document or power of attorney has been made ready for return, the actual postage to be affixed under cover shall be entered in 'E' Account and the excess, if any shall be sent to the party by money order or disbursed in cash after obtaining proper receipts.

- (f) A total of column 4 of Account E mentioned in (a) above, shall be struck at the end of each month and a progressive total struck in red ink for the current financial year.
- (g) The serial numbers in column 1 of the account shall begin and terminate with the calendar year. Each document, power of attorney, encumbrance certificate or certified copy required to be returned by post shall be given separate serial numbers. When value of postal charges collected relate to more documents or powers of attorney than one, they shall be bracketed in column 3 and a single entry in column 4 will suffice.
- (h) When the acknowledgment for the receipt of a document, power of attorney, encumbrance certificate, or certified copy returned by post is not received within a reasonable time, a reference shall be made either to the postal authorities or to the addressee of the cover and an entry to that effect shall be made in column 10 of the account. When such acknowledgments are received they shall be pasted in the respective counterfoil of the fee receipt.
- (i) Parties requesting for the return of documents, power of attorney, Encumbrance Certificate, or certified copy shall be asked to produce self addressed envelope of sufficient size, so as to prevent loss in transmission.
- (j) In order to facilitate the identification of postal acknowledgements received and effect necessary entry in column 8 of Account E, registering officers shall while filling the form of postal acknowledgement, enter in red-ink at the top of the form the document number, and the book together with the year in the form of a fraction thus-
- “211/4/1973”  
“1922/1/1923”
266. Requests for the return of a document power of attorney encumbrance certificate, or certified copy to this order by post should be made at the time of their presentation for registration or attestation. Subsequent applications in that behalf need not be complied with. The requests of parties in this behalf shall be got endorsed on the back of the office copy of the concerned fee receipt.
267. The covers in which documents etc., are returned by post shall be sealed with the wax seal of the Registering Officer who shall ensure that they are duly posted and that the postal receipt is obtained without delay. The entry of value of the postage in the postal receipt shall be verified with the entry in the register and discrepancy if any in the entry shall be rectified by a reference to the postal authorities. The number of the postal receipts shall be entered on the back of the counterfoil of the concerned fee receipt.
268. Documents presented by several persons shall not be sent in one and the same cover, even though they are to be sent to the same person
269. *Procedure relating to undelivered covers, containing documents sent by registered post:—*
- (a) When a cover containing a document returned by post is received back from the post office undelivered, the cover shall be opened by the Registering Officer and after verification of the contents, a notice shall forthwith be issued to the

signatory of the endorsement on the counterfoil of the receipt, authorising the return of the document by post, requiring him to appear at the Registration Office with the receipt for the purpose of cancelling the endorsement and taking back the document himself. The notice shall contain an intimation that if the document is not claimed within 15 days from the date of registration of the document, safe custody fee will be charged. There is, however, no objection to the document being delivered to the addressee in person if he so desires.

**(b)** Where the signatory of the endorsement of authorisation in the counterfoil is a nominee of the presentant, the notice required by clause (a) shall be sent to the presentant as well. If in such a case the presentant responds to the notice and claims delivery of the document he shall subject to the provision of the Kerala Registration Rule 120, be required to revoke the nomination made under the Registration Rule 115 before the document is delivered to him.

**(c)** On the date of receipt of the cover in the Registration Office:

(i) a note of its non-delivery to the addressee shall be made in column 10 of Account E as follows:-

“Returned by post office undelivered on .....

(ii) the date of return entered in Account A ..... when the document was first posted, shall be cancelled with a note as above.

**(d)** The document shall thereafter be treated, for all purposes as unclaimed document until its return to the presentant or his nominee and on the expiry of 15 days from the date of registration shall be entered in the register of unclaimed documents.

**(e)** If the document is not claimed within fifteen days from the date of registration, a safe custody fee shall be charged for every 15 days or part thereof, after expiry of the first 15 days.

**(f)** When the documents is delivered to the presentant or his nominee a note in the following form, shall be entered in column 10 of the account below the note entered under clause (c) “Delivered to presentant (or presentant’s nominee) on ..... In Account A and in the register of unclaimed documents, the fact of return shall be entered in the usual manner with suitable remarks.

**(g)** The date of despatch of a document by post shall be endorsed in the document before it is so despatched. The notes of return contemplated in Order 264(a) above need be written in the register volume only after the acknowledgment is received. The date of despatch and the date of acknowledgment may also be specified in the notes so written. In case the document is returned undelivered, no further notes need be written on the endorsement of the document as the document has to be viewed as an unclaimed document for all purposes. No notes whatsoever, need be written at foot of the entry in the register volume in such cases.

**(h) Levy of safe custody fee:**— In case a document is not taken delivery by the party within 15 days from the date of the certificate of registration, or refusal as the case may be, safe custody fee as prescribed in article 9(i) of the table of fees has to be realised. The fee should be levied separately for the original and the duplicate when returned to different persons.

**NOTE:**— While calculating the period of delay of 15 days for the above purpose the date of registration shall be excluded and if the 15<sup>th</sup> day happens to be a holiday, the document may be returned on the next working day without the levy of fee. A concession as such is not applicable to subsequent delays.

## CHAPTER XII

**Attendance at Private Residence**

- 270. General:**— A Registering Officer may attend at a private residence for any, or all of the purposes, mentioned in Rule 48 of the Registration Rules.
- 271. (a)** Attendance at the private residence shall be made out of office hours or on holidays so as not to interfere with office work.
- (b)** Applications for private attendance shall be complied with as early as possible.
- (c)** Except in urgent cases the Registering Officer may postpone an attendance to a holiday in cases which involve a journey to a great distance, provided the applicant has no objection in postponing the same. A deposition should be recorded from the applicant in such cases to the above effect.
- (d)** When compliance with requisitions for a private attendance cannot be made without interfering with the regular business of the office, a commission shall be issued, wherever practicable and unobjectionable.
- (e)** When the issue of commission is impracticable or objectionable, in the above cases, the Registering Officer after obtaining a deposition, from the party concerned, justifying the urgency, may, proceed to the residence, even if it may interfere with regular office work. For reason of illness the application should be supported by a certificate from a Medical Practitioner, that the state of applicant is in a precarious condition. All cases of closure of office partially or wholly on a working day in the above cases, shall be reported to the Registrar forthwith who should make a report to the Inspector General with a full statement of the case.
- (f)** Irrespective of whether there are one or more Sub Registrar in an office, no attendance at private residence shall be made by Registering Officers, during office hours unless it is very urgent and report is supported by a medical certificate to warrant immediate compliance.
- 272. Applications:**—
- (a)** An application for an attendance at private residence shall be from persons referred to in Rule 48 of the Registration Rules. The application need not be stamped.
- (b)** Any number of persons entitled for exemption may present a single application for attendance at the same residence.
- (c)** On every application the hour as well as the date of receipt shall be noted and initialled by the Registering Officer.
- (d)** The applications may be presented by any one authorised by the applicant. A deposition shall be obtained from the messenger on the application as to whether the reason furnished by the applicant for the attendance is correct. If the Registering Officer is satisfied that the reason furnished is correct, the request of the applicant shall be duly complied with. He shall endorse on the application that the 'application is admitted'.

- (e) In case the application is admitted the date and hour at which the attendance will be made, shall be recorded on the application. The applicant shall be informed in writing of the date and hour when the attendance will be made and an office copy of the letter kept with the application. Acknowledgment for receipt of the letter to the applicant should be obtained from the presentant of the application in the office copy of the letter. The office copy of the letter shall be filed along with the application for attendance as provided in order 273(c).
273. (a) All fees realised in connection with the application shall be noted on the application item-wise.
- (b) If the Registering Officer decides to issue a commission, the date of issue of the commission shall be entered on the application.
- (c) All such applications shall be registered in the petition register (Form No.22) and filed in a separate file book.
274. A brief summary of action in respect of each application such as the time of departure from office, the time of arrival at the private residence, time taken for attendance and the time of return shall be recorded on it. The number of the document dealt with in the course of the attendance shall also be noted.
275. Copies of applications for attendance at a private residence with the details recorded thereon as above shall be forwarded to the Registrar along with the respective report on the attendance as provided for in Registration Rule 52.
276. *Application from non-exempted co-executants to record admission of execution with reference to article VIII(3) of the table of fees:—*
- (a) Application from persons not entitled for exemption for recording admission of execution on documents with reference to article. VIII(3) of the table of fees shall be accepted only at the residence. But their request shall be complied with only after the request of the original applicants have been duly complied with.
- (b) Non-exempted persons shall not be allowed to present documents at the residence even on payment of additional attendance fee.
- (c) Fresh applications if presented by parties entitled to exemption other than the original applicants may be accepted from the residence for all or any of the purposes referred to in Rule 48 of the Registration Rules but their request shall be attended to only after the request of the original applicants have been duly complied with. Additional attendance fee if any found leviable, in the above case, may be realised at the residence.
- (d) In really urgent cases, a Registering Officer may accept and comply with applications for attendance outside office hours or during holidays. In such cases, a deposition shall be obtained from the presentant of the petition detailing the urgency. The Registering Officer, must record in detail and in writing on the application (for attendance) the reasons as to why he consider the case as “really urgent”.
277. *Fees:—* The fee for attendance, travelling allowance, batta, etc., shall be collected at the time of presentation of the application and a receipt for the amount realised should be issued at once.

**278.** When in the course of attendance at a private residence, the Registering Officer records under the provisions of the Rule 53(b)(iii) of the Registration Rules in respect of the same document, the admission of execution of the persons not entitled to the concession, extra fee as contemplated in the Registration Rules and prescribed in article VIII(3) of the table of fees shall be levied in respect of each such person.

**279.** *Calculation of Attendance fee leviable:*— According to note under article VIII(1) of the table of fees, a single attendance fee is leviable, irrespective of the number of documents of which business is transacted at the residence, provided there is an exempted party common in all the documents dealt with at the residence.

**NOTE:**— The wording “was a party to each such document” occurring in the above note must be taken to mean that such party exercises an action either as presentant or as executant in respect of all documents dealt with at the residence. So long as the above conditions are not satisfied, it cannot be viewed that a common party exists in all the documents and as such the levy of a single attendance fee will not be justified. The “term” document referred to above would cover all the purposes referred to in Rule 48 of the Registration Rules.

**280.** (a) When at a private residence a Registering Officer has to act upon several documents, including powers of attorney for attestation, it will be sufficient to levy a single attendance fee if any exempted party exercises an action on all of them such as presentant, executant, or principal for attestation and his/her name thereby appears in any (or all) of the endorsements of presentation, admission of execution, or attestation. In so far as that is not the case, the number of fees shall be determined with reference to the number of documents and common parties existing therein.

(b) When there are several documents and several parties to be dealt with at a private residence, the documents should be grouped together according to the existence of common parties therein and as many fees as there are groups shall be realised from the parties.

The following illustration will make the matter clear:

An application for attendance was made by two exempted persons “A” and “B” for registering two documents one of which was executed by “A” in favour of “C” and the other by “B” in favour of “A”. If “A” who is a party to both the documents presents them at the residence, a single attendance fee will suffice. If “A” and “B” separately present these documents, two fee will have to be realised as the common party A did not exercise action on both the documents.

Again out of the two documents dealt with at the residence if A (exempted) is presentant in one document (claimant) and executant in another, his name will find an entry in the presentation endorsement of one document, and in the endorsement of admission of execution in the other and therefore is a common party for both the documents, and as such a single attendance fee will suffice.

**281.** In order to enable the Registering Officer to determine and levy the correct attendance fee leviable with reference to the above order the applicant should as far as possible, be required to specify in their application all acts and deeds which they require to be attended to by the Registering Officer at the residence.

- 282.** When an attendance is made at a private residence in respect of a party to a document who executes also an application for the transfer of revenue registry, co-executants who admit execution of the document at the same residence may also be permitted to execute the application at the residence without the levy of second attendance or extra fee.
- 283. *Employment of Hammamnee:—***
- (a)** For the services of a woman employed in the examination of a gosha woman, the fee prescribed therefore shall be collected from the party concerned and disbursed.
- (b)** The fee levied for the services of the female attendant under the table of fees should be entered in the 'C' Account and be paid to her after obtaining proper vouchers which should be filed along with the application for attendance.
- 284.** When a gosha lady appears before a registering officer in his office, arrangements shall be made under Rule 66 of the Registration Rules to exclude the general public during the course of her examination if this course be desired by her. If she is however unwilling to appear before the Registering Officer and wishes to be examined through a hammamnee or female attendant her request may be complied with after levying the prescribed fee for the service of the latter.
- 285. *Levy of Travelling Allowance:—*** In calculating mileage the distance travelled to and for shall be taken into account and fractions of less than half of a kilometre shall be excluded.
- 286. (a)** In the case of Sub Registrars and clerks either daily allowance or mileage, whichever is advantageous shall be claimed subject to the minimum and maximum prescribed in the table of fees. When a Registering Officer performs the journey in respect of the whole distance in a conveyance provided by the party, no travelling allowance or daily allowance shall be levied for him and the fact should be noted on the application.
- (b)** In the case of peons accompanying the Registering Officer, the following principles shall be adopted.
- A minimum travelling allowance equal to the daily allowance admissible under the Travelling Allowance Rules, shall be levied in every case of journeys below 32 kilometres. For journeys exceeding 32 kilometres, mileage allowance admissible under Part II of the Kerala Service Rules may be levied subject to the minimum prescribed under articles VIII 4(b) of the table of fees.
- 287. (a)** As it may not be always possible to anticipate the actual amount of expenses for levying travelling allowance, the following procedure should be followed:—
- (i)** The maximum amount of mileage prescribed in articles VIII 4(b) of the table of fees for the Sub Registrar and the peon should be levied and credited to Amount C in the first instance; and
- (ii)** The amount of actual expenses both for the Sub Registrar and for the peon shall, on completion of the attendance be shown as a disbursement in Account C. A separate entry should be made in the account when the balance is returned to the party or to the person authorised by him to obtain the unspent money.



(b) When travelling allowance is levied for an attendance at private residence and appropriated by the Registering Officer and Peon after attendance their acquittance shall be entered on the application for private attendance itself.

(c) In cases where the minimum travelling allowance is levied under article VIII 4(b) of the table of fees, the entire amount may be appropriated by the Registering Officer, irrespective of the amount of actual expenses.

(d) The principle underlying clause 6 of article VIII of the table of fees, is that more than one travelling allowance, should not be claimed for a single journey irrespective of the number of attendances in villages. The village may be different but contiguous. Even in such a case, more than one travelling allowance shall not be collected if attendances are made in the course of a single journey, without returning to headquarters.

**288. Attendance by Sub Registrar of amalgamated offices exercising powers of Registrars:—**  
The Sub Registrar of an amalgamated office shall attend at a private residence outside his Sub-district only when he holds charge of the Registrar's office (i.e., during the absence of the latter, on inspection or leave, etc.).

In regard to documents in respect of which the property is situated in the amalgamated Sub-district but the executing or claiming parties reside outside the jurisdiction of the Sub Registrar of the when amalgamated office, may attend at private residence of the parties only when he holds charge of the Registrar's Office during his absence on leave or on tour, etc., and not otherwise.

**289. (i)** Attendance at private residence can be made only on application from parties. Such applications will have to be presented either to the Registrar or to the Sub Registrar. Accordingly an officer holding charge of both the offices can receive and comply with applications in either of the two capacities as per rules.

**(ii)** In cases where a, Sub Registrar of an amalgamated office attends at a private residence both in the capacity of a Sub Registrar and in the capacity of a Sub Registrar exercising the powers of a Registrar, two separate applications for attendance at private residence, are necessary viz., one addressed to the Sub Registrar and the other addressed to the Registrar. In such cases, two private attendance fee should also be levied. Separate reports also should necessarily be submitted under Rule 52 of the Registration Rules (Kerala), one to the Registrar in respect of attendance made in the capacity of the Sub Registrar and the other to Inspector General of Registration in respect of the attendance made in the capacity of the Sub Registrar exercising the powers of the Registrar under section 30(1) of the Indian Registration Act.

However only one travelling allowance claimable by the higher of the two officers can be levied and appropriated.

**290. Levy of fee with regard to powers of attorney attested and registered by the Sub Registrars of the amalgamated offices exercising powers of Registrars:—**

**(a)** A Registrar or Sub Registrar exercising powers of a Registrar may proceed to attend at a private residence for authentication or registration or for both of a power of attorney executing by a principal residing within his jurisdiction. The authentication of a power of attorney as distinct from the registration of it, by Registrar (or Sub Registrar exercising powers of the Registrar) is done only under

section 33 of the Indian Registration Act. The extra fee under article III of the table of fees is not leviable in such cases. But the presentation and the registration of a power of attorney is governed by section 29 of the Indian Registration Act. Hence the Registrar (or Sub Registrar exercising the powers of a Registrar) who accepts and registers a power of attorney executed by a principal within his jurisdiction gets authority only under section 30(1) for which extra fee under article III of the table of fees should be levied. When such a power of attorney is both authenticated and registered by a Registrar or a Sub Registrar exercising the powers of a Registrar: the extra fee has to be levied under section 30(1) of the Indian Registration Act.

**(b)** All registrations by the Sub Registrar of the amalgamated office do not involve the levy of extra fee. Powers of attorney whose principles resides within his jurisdiction at the time of execution, fall under documents executed within his sub-district as used in section 29 of the Indian Registration Act and these documents may be registered by the Sub Registrar of the amalgamated office without invoking section 30 of the said Act. Again a power of attorney, all the claimants and executants of which desire it to be registered in his office, may also be registered under section 29 of the Indian Registration Act without invoking section 30 of the said Act. In order to satisfy the latter condition, the document should be presented by the sole claimant and admission of execution recorded in respect of all the executants. If there are more claimants than one, a statement should be embodied in the document that all the claimants desire the document to be registered in that particular office. In the above cases also, no extra fee is required. The above principle is applicable to all documents registrable in Book 4.

**291. Detailed instructions regarding Private Attendances:—** A Registering Officer is not permitted to take a clerk with him when proceeding on attendance at a private residence.

**292. (a)** Attendance at a private residence shall not be made after sunset. The requirement of this order is that all the work connected with the recording of admission of execution of the party to the document, the identification of the party, the recording of depositions, if any, and such other work connected with the document shall be completed before sunset.

**(b)** Registering Officers are at liberty to decline compliance with requisitions for attendance at private residence when the party himself or any one else in his residence or in its immediate vicinity is suffering from cholera, small-pox or such other fatally contagious disease.

**(c)** The document in respect of which an attendance is made and all connected records such as depositions and thumb impression slips shall be secured and conveyed by the Registering Officer in his personal custody. Under no circumstances, shall they be entrusted to a peon. On the completion of the attendance, the document and the other records shall, except where owing to the lateness of the hour or other reasons, it is impracticable to follow this course, be secured in the Registration Office and not taken to residence of the Registering Officer.

**293. Explanation of the term 'special cause' referred to in section 31 of the Indian Registration Act:—**

(a) It is impossible to detail cases falling within the meaning of 'special cause' in section 31 of the Indian Registration Act. It is within the discretion of a Registering Officer to decide in what cases, rank and position can be accepted as a 'special cause'. The decision must depend on the circumstances of each case and more especially on the local custom and the rank and position of the family to which the person in respect of whom attendance is solicited belongs. If the Registering Officer sees sufficient cause to comply with an application he may do so, provided that the concession is not abused, that it does not interfere with the regular business of the office and that the attendance fees are duly paid. When exemption from necessity to appear in Registry Offices is claimed by parties as a matter of right, the Registering Officer must satisfy himself of the existence of the authority for the claim before it is admitted. He shall refer the Register of persons exempted from court retained in his office in Form No.7.

(b) In the case of religious devotees held in high estimation by particular sections of the community and of women who though not strictly gosha, are by the custom of the country debarred from appearing in public except under compulsion the provisions of section 31 of the Indian Registration Act shall be interpreted liberally. In other cases, the concession shall be allowed sparingly. Generally, in the case of persons who ordinarily attend at courts and *cutcheries* of their free choice, personal attendance shall be insisted upon.

**294.** Registering Officers should as a rule be very careful, when accepting for registration wills at private residences to see that all the formalities connected with the registration are accurately and carefully gone through and that no room whatever is given to parties to say that any irregularity took place even as regards the hour of presentation which should invariably be during the day between sunrise and sunset. In exceptional cases a detailed report should be sent to the Registrar.

**295.** When a will or other document is accepted for registration at a private residence while the executant is ill, the Registering Officer will take particular care to see that the executant is conscious of what he is doing.

**296. Commissions:—**

(a) When a commission is issued under Rule 54(1) of the Registration Rules it shall be accompanied by a set of interrogatories to the person to be examined. When the person has to be examined with reference to the execution of a document, the interrogatories shall ordinarily be in the following form:

- (1) What is your name?
- (2) What is your father's; karanavan's or (husband's) name?
- (3) Have you read through the document? *Or*  
Have you heard the document now read out?
- (4) Do you admit execution?
- (5) Have you any objection to sign the endorsement?
- (6) Questions regarding consideration, etc.

(b) The signature of the person examined shall be obtained at foot of the replies which shall also bear the authentication of the commissioner with date.

(c) The commission order with its accompaniment shall when returned by the commissioner, be filed in the file of powers of attorney and a serial number assigned to it.

(d) A commission issued to an officer in another district or sub-district shall, together with the interrogatories if any and the original document be forwarded by registered post, the requisite postage charges for their transmission to and re-transmission by the commissioner being levied from the presentant in advance. In no case shall the commission order and its accompaniments be entrusted to the presentant.

**NOTE:**— Registering Officers should note that the question of the issue of a commission arises only in cases where a valid presentation of a document has been made.

**297. Reports of attendance:**— The report required to be made by Sub Registrars under Rule 52 of the Registration Rules shall be in the form prescribed.

(Form No. 8)

When the report relates to an attendance by a clerk under a commission issued by a Sub Registrar, it shall be signed by the clerk and countersigned by the Sub Registrar.

**298.** The name and particulars of the person who has applied for attendance at a private residence and who has signed the application shall be written in the column name of the applicant in the private attendance report and not the name of the messenger through whom the application was sent. If, in the course of attendance at a private residence, the applications of other parties have also been received and action taken on them, that fact and how they are entitled to concession should be noted in the remarks column of the report.

**299.** A report on the attendance at private residence pertaining to a Registrar's Office shall be forwarded to the Inspector General for perusal and return. The impression slips returned by the Inspector-General shall be preserved permanently by the Registrar.

**300.** When a Registering Officer complies with the application for attendance by attending the private residence, the fee realised will be considered as earned, irrespective of the fact whether any deed is accepted or admission recorded at private residence or not. The attendance fee when becomes earned as above, will not be refunded to the party.

## CHAPTER XIII

**Custody and remittance of money and Refunds****301. Custody:—**

(a) All moneys received from the public shall be brought to account immediately in the prescribed departmental accounts. Receipts shall be issued immediately in duplicate in carbon in Form No.18, the duplicate being issued to the parties.

(b) In order to check the total daily collections as per the accounts, Registering Officers shall total the entries of receipts as entered in the original receipts and note their total on the back of the last receipt for the day and verify results. The total number of receipts issued on each day shall also be noted under the entry of the total collections in the last receipts and initialled and dated by the Registering Officer.

(c) The appropriation of departmental receipts to departmental expenditure, except when specially authorised, is strictly prohibited.

(d) The collections shall not be used for the personal or private use of the Registering Officer nor shall private money be kept along with the collections. All money on hand shall be kept in the iron safe or in a box secured in a locked almirah.

**302. Remittances:—** Officers-in-charge of offices shall be responsible for the due remittance into the treasury of all collections on due dates. In a Sub Registrar's Office, amalgamated with the Registrar's Office collections in the supervising and registering sections shall be separately remitted as per separate chalans (common form). The Registrar shall be responsible for such remittance in the supervising section, when he is at headquarters, while the Sub Registrar shall be responsible for remittance in the Registering section. When the Registrar is absent from headquarters on tour or inspection or otherwise the Sub Registrar of the amalgamated office shall be responsible for such remittance in the supervising section as well.

**303. Remittance of money and refunds:—**

(a) A register of remittance (in Form No.27) shall be maintained in each office. Details of money sent to treasury shall be entered in this register and the acquittance of peon taken before handing over the money and chalan to the peon. The chalan number and the date of remittance with the name of the treasurer the sub-treasury shall be entered against the progressive total in each of the accounts A, B and D at the time of remittance as directed in Order 321 infra.

(b) The Sub Registrars shall arrange for the chalan receipts being brought back to the office on the same day in the case of treasury stations and the next day in the case of non-treasury stations. When the chalan receipts are received, the Sub Registrar shall verify and initial the same with date and note its number and date against the concerned entry in the 'H' account and remittance book.

(c) The collections at non-treasury stations shall not be handed over to a peon before 6 a.m. on the day on which he commences the journey nor shall be perform

any portion of such journey with the money between 6 p.m. and 6 a.m. on any day.

- 304. (a)** Collections in the offices in treasury stations (inclusive of those on preceding holidays) shall be remitted to the treasury the next working day. In non-treasury stations, remittances shall subject to the limit hereinafter prescribed, be made once in nine days namely 1<sup>st</sup>, 10<sup>th</sup>, 19<sup>th</sup> and the last remittance should invariably be made two days before the last working day of the month, or on such date as prescribed by the I.G. from time to time so as to present the salary bill in time; provided that if any such day happens to be a holiday collections included those of the preceding holidays, shall be remitted on the next working day. Whenever the collections in an office exceed Rs.500, remittance shall be made the next day irrespective of the time limit prescribed and without in any way postponing the due instalments of remittance even if it happens to fall on the very next day. A special remittance of the collections up to the closing date of the financial year shall be made on the closing date over and above remittances prescribed above, as laid down in Article II of the Kerala Financial Code Bills to be presented and cashed shall be sent on dates of remittance.
- (b)** Where owing to unavoidable causes, a remittance is not made on the due date, a report shall be made by the Sub Registrar to the Registrar, explaining the reason for such non-remittance. The amount to be remitted shall, however be remitted on the next working day.
- (c)** A monthly list of remittances shall be prepared and forwarded by each Sub Registrar working in non-treasury stations to the Sub Registrars of the appropriate treasury/sub-treasury station, for causing verification with the treasury figures, immediately after the last remittance of the month. The verified list shall be forwarded by those Sub Registrars to the Registrar, who will check the list with the “statement of receipts and remittances” already submitted to him by each Sub Registrar. The Head Clerk or the Junior Superintendent as the case may be, of a Sub Registry Office, will be held responsible for the forwarding of the lists on the due date.
- (d)** Ordinarily peons by turns shall be deputed for remittance.
- (e)** The statement of receipts and expenses of a month duly consolidated and reconciled shall be forwarded by the District Registrar and Inspector of Registration Offices to the inspector General of Registration so as to be received in the office of the Inspector General of registration on or before the 10<sup>th</sup> of the succeeding month. The District Registrar and the Junior Superintendent of the District Registrar’s Office, will be personally responsible for the correct preparation and punctual submission of the Statement. (*See* para 71 of the Budget Manual).
- (f)** The statement of receipts and expenses received from District Registrars and Inspector of Registration Offices and that of the office of the Inspector General of Registration shall be consolidated and reconciled punctually with the figures recorded in the Accountant General’s Books. (*See* para 72 of Budget Manual).

- 305. Refund:**— Registrars and Sub Registrars are authorised to refund—
- (a) Fees and fines levied on documents refused registration or returned unregistered; and
  - (b) Undisbursed process fees, batta and travelling allowances levied in connection with documents presented to them for registration.
- 306. (a)** A refund register shall be maintained in each office in Form No.33 on which shall be entered all fees refunded with details of party, etc., to whom refund was made. When any refund is made, a note shall also be made in the register of fees to be refunded and concerned accounts and registers.
- (b)** The Head clerk or Junior Superintendent, as the case may be, of a Sub Registry Office, shall be responsible for the maintenance of the register in form 33 and he shall personally fill up columns 1 to 10, of the register. The Registering Officer shall verify the entries made in columns 1 to 10 and then obtain the acquittance of the party in column 11. The entries made in columns 12 & 14, shall be filled up by the Sub Registrar himself personally.
- 307.** A refund of excess collections shall be made only on the application of the payer thereof. It need not be stamped. An application for refund shall be presented to the officer to whom the amount was paid with the fee if any, prescribed therefore. The officer shall then make the refund if he is himself competent to do so, or seek the sanction of the competent authority in other cases.
- 308.** No refund is permitted on partial refusals of a document. In the case of total refusals a refund of the collection shall be made on the application of the presentant and a fresh fee realised when a representation is made under appeal orders.
- 309.** Excess levy of fees shall be refunded only with the sanction of the Inspector General. A collection under private residence or for a search or the preparation of a copy may be refunded by the Inspector General, whenever he is convinced that the Registering Officer had not proceeded to the residence or that the search or the copy was not made at the request of the applicant.
- 310.** On receipt of orders of sanction for the refund of any claim and in cases where he himself is competent to make the refund, the Registering Officer shall prepare the refund order and forward it to the Treasury Officer concerned for verification of credit in the treasury accounts. The particulars of refund shall at the same time be noted against the original entry of receipt of the amount in the departmental accounts and in the counterfoil of the receipt already issued to the party so that a refund of the same amount may not be made again. On the return of the refund order with the certificate of verification by the treasury, the Registering Officer shall submit it to the Registrar for counter-signature if necessary. The refund order shall then be handed over to the applicant for encashment after obtaining proper acquittance therefore.
- 311.** Before signing a refund order in respect of any item of revenue, the Registering Officer should trace the original records relating to the receipt of the amount and see that the particulars of the refund are recorded with date and initials against the original entry of the receipt in the departmental accounts in such a way as to make it impossible to entertain by mistake any further claim for a refund of the same

amount. The particulars of the refund should invariably be recorded on the counterfoil of the receipt previously granted to the payer and that receipt (and any other acknowledgment granted to the payer) should if possible, be taken back and destroyed. A note of refund shall also be added at the foot of the concerned entry in the Register Book “by the officer himself (who is to maintain the accounts) and it shall be attested with his dated initials”.

312. The Government servant who is responsible for the maintenance of the departmental accounts containing the original receipt entry shall certify on the refund bill that the refund has been so noted and shall fill in columns (1) to (5) of the form.
313. *Defalcations and losses:*— Defalcations or losses of departmental revenue or receipts shall be reported immediately by a Registering Officer to his immediate superior and to the Inspector General.
314. *Special Recoveries:*— In every office, a register of special recoveries shall be maintained in Form No.34 in which shall be recorded details of amounts to be recovered from Sub Registrars such as fees and stamp short levied and ordered to be made good.



## CHAPTER XIV

**Accounts and Registers****315. Accounts:—**

Accounts A to H in the forms prescribed (Forms Nos.60 to 67) shall be maintained in every Sub Registry Office. All fees and other amounts received by Registering Officers shall be accounted for in the appropriate account books.

**(a) Account A** shows the daily registrations in Book 1, 3 and 4 and the fees realised thereon.

**(b) Account B** shows all miscellaneous fees, other than fee realised for searches and copies and amounts ledgered in Account C.

**(c) Account C** shows receipts and disbursements mentioned in order (333) below.

**(d) Account D** shows the number of applications for searches and copies received and the fees realised thereon.

**(e) Account E** shows the number of documents, etc. returned by post.

**(f) Account F** is a classified gist of all the various transactions conducted each day in a Sub Registry Office.

**(g) Account G** is a daily account showing the number of documents admitted to registration pending admission to registration, copied, uncopied, returned, unclaimed, applications for copies and encumbrance certificates accepted and complied with, etc.

**(h) Account H** is the daily account showing total collection under each account and the total cash balance at the close of the day.

**(i)** Account of stamp duty levied under the local bodies acts.

**(j)** Accounts maintained under the Special Marriage Act., Chitties Act.

**(k)** Register of contingent charges.

**316.** All accounts in Sub Registry Offices shall be maintained either in English or in Malayalam.

**317.** Accounts A, B, C and D shall be written up as soon as a document, petition or application is accepted for registration or other action, and accounts F, G and H shall be written up before the office is closed for the day. Every erasure, or interlineation in all accounts maintained under order No.315 shall be attested by the Registering Officer.

**318.** Entries shall ordinarily be made in black ink, but when a document is accepted for registration but is not admitted to registration on the day of presentation, the entries relating to the fee alone shall be entered in black ink and the other particulars in red ink in Account A. On the day, the document is admitted to registration, the entries relating to it, shall be repeated the fee entry in red ink and the other particulars in black ink.

**319.** Documents pending admission to registration, shall be numbered in the form of a fraction, the numerator being the letter "P" and the denominator the serial number

of the pending document e.g.:- P/1 , P/2, P/3 and so on, the serial number commencing and terminating with the calendar year.

(The term miscellaneous fees used in order 315(b) above includes fees for appeals, applications and original enquiries, attendance fees, and other items like sale proceeds, auction fees for lease of usufructs, etc.).

- 320.** In every office where collections are daily remitted into the treasury or the sub-treasury, a daily total shall be struck in Accounts A, B, and D and when remittance is made, the entry “remitted to the treasury/sub-treasury on ..... chalan No.....” shall be made and initialled with date by the presiding officer. Where fees are ledgered in two or more columns in an account, the remittance entry should show the total of such amounts.
- 321.** In offices where the collections are remitted at fixed intervals (usually on the 1<sup>st</sup>, 10<sup>th</sup>, 19<sup>th</sup> and 28<sup>th</sup> of each month except in the month of March and when collections exceed Rs.500) the entry of the total of each day is unnecessary, but a progressive total of the collections since the date of the last remittance, shall be struck each day and verified with the cash on hand. When a remittance takes place, an entry as shown in the preceding paragraph shall be made.
- 322. (a)** On the first working day of a month, the accounts up to and including the last date of the previous month shall be closed, totals struck, and accounts shall be signed and dated by the Sub Registrar concerned. In the case of Accounts C and F a note shall be entered to show the balance under each head of receipts, such as process fees, unclaimed batta, and so on with particulars showing the number of document, appeal, application for copy or encumbrance certificate etc., and the date of receipt of the amount in each case.
- (b)** On every occasion of transfer of charge of an officer including transfer of charge when a Sub Registrar goes on casual leave, the entries in Accounts A, B, C, D, E and F, accounts maintained under the Special Marriage Act, Chitties Act and Kuries Act shall be closed up to the time of transfer of charge and signed by both the officers handing over and taking charge with the hour and date of handing over and taking over.
- 323. Account A:—**
- (i)** Column 1— Every date shall be accounted for. When there are no registrations, the entry “registrations nil” shall be entered against that date. Holidays shall be indicated as Sunday, Thiru-Onam, Muharram, X’mas, etc.
- (ii)** Column 2— Every document formally presented for registration shall be given a general number in this column in continuous series irrespective of the book in which it is registrable, as it would show the total number of documents presented in an office up to a particular moment in the year. Documents with duplicates or triplicates should be given only one number. But a document and its counter-part should be separately numbered. The general number as assigned above need not be shown in the registration certificate.
- (iii)** Column 3— The number of the register book volume in which the document is registered, shall be shown in this column.
- (iv)** Columns 4, 5, and 6— These columns show the serial number of the documents admitted to registration in each class of register books. When

documents are kept pending admission of execution by the parties, or when they are otherwise kept pending admission to registration, their pending number should be indicated in red ink in columns 4, 5 or 6 as the case may be, thus (P/5) or (P/6). When such a pending document is admitted to registration on a later date, it will be given the next assignable serial number in the particular class of book to which it belongs and entered in columns 4, 5 or 6 as the case may be in black ink, the original general number with date and the fee entry being made in red ink. Whenever documents are kept pending admission to registration, the reason for such pendency shall be shown by means of a note at foot of the page and when they are admitted to registration, a cross-reference shall be given by means of another foot-note.

(v) Column 7— The nature of the document shall be given briefly in this column, the undermentioned abbreviations being used invariably.

#### Abbreviations

Conveyance	..	Con.
Lease	..	L
Lease perpetual	..	LP
Mortgage	..	M
Mortgage With Possession	..	MWP
Further Charge on Simple Mortgage	..	FCS
Further Charge on Mortgage with Possession	..	FCWP
Partition	..	Part.
Receipt	..	Rt
Release	..	R
Transfer	..	Tr.
Settlement	..	Sett.

A transfer of a lease of 10 years' term would be shown in Account A as "Tr. L. 10 years". Sales and gifts shall be written as such without any abbreviation.

In the case of sales in favour of mortgages where of stamp duty paid on the original mortgage is allowed, a foot-note should be added in the following form.

"The Original is a M/MWP for Rs. .... dated ..... and bears a stamp duty of Rs. .... The undischarged amount due is Rs. ...."

In respect of the undermentioned documents, the additional information given below shall be given,

- (a) **Documents executed in connection with chit funds**— The word "chit" shall be prefixed.
- (b) **Agreement to sell**— The advance amount, if any, shall be shown separately.
- (c) **Counter part**— The number of words on which the fee is levied and, when the fee is based on the fee for the original, the value of the original.
- (d) **Further charge**— Whether with or without possession and whether the original mortgage was with or without possession and if the original

mortgage was without possession and the further charge is with possession, the date and value of the original mortgages.

- (e) **Mortgage**— Whether with or without possession.
- (f) **Partition**— The values of the separated share or shares.
- (g) **Rectification, Cancellation and supplemental deeds**— The number, year and the nature of the original document in the case of cancellation and supplemental deeds and the number and year of the original documents in the case of rectification deeds.
- (h) **Surrender of Lease**— Date, term and value of original lease.

(vi) Column 8— Compulsorily registrable documents will be indicated by the letter “C” and optionally registrable ones by the letter “O” in this column.

(vii) Column 9— Documents relating to agricultural properties will be distinguished by the letter “A”, non-agricultural properties with the letter “N” and combined properties the symbol “AN”.

(viii) Column 10— Every application for transfer of revenue registry accompanying a document presented for registration will be given a serial number with the distinguishing letter “R”, such serial numbers commencing and terminating with the calendar year.

(ix) Column 11— When a document presented for registration is accompanied by a notice for transmission to local bodies like Municipalities and Panchayat Boards in connection with the transfer of building tax in the name of the purchaser such notices shall be assigned a similar serial number with the distinguishing letter “N”, in this column.

(x) Column 12— The value of the document will be entered in this column. If the document is unvalued or not susceptible to monetary valuation, the word unvalued will be entered in this column.

(xi) Column 13— The total of the stamp value in respect of a document will be entered in this column.

(xii) Column 14— The various items of fees levied in respect of a document such as registration fee, extra copying fee, memorandum fee, fee for endorsement under section 58(i)(c) of the Indian Registration Act, etc. will be shown in this column one below the other, each such item being specified in column 7. When a document consists of two or more transactions the main transaction will be written first and the other transactions will be noted below it. A specimen entry is given below:

(2)	(4)	(7)	(8)	(9)	(10)	(12)	(14)
1250	1015	Sale	C	AN	Rs.21	1,000	20.00
		Extra C. fee for 2 Pages					2.00
		Memo to S.R. ....					10.00
		Endt. under sec.58(i)(c)					10.00

(xiii) Column 15— The date of execution or if a document is executed on different dates by different persons all such dates bracketed together shall be shown in this column.

(xiv) Column 16— The date of purchase of stamp or the latest dates if stamps are purchased on different dates shall be shown in this column.

(xv) Column 17— The date on which the certificate of registration or refusal is written, shall be noted in this column. When a document is partially refused and partially registered, both the dates should find a place in this column and a suitable note added in the remarks column.

(xvi) Column 18— The date of return or despatch of a document by post shall be shown in this column, (remarks such as “returned undelivered by the post office” or “destroyed”, etc. being noted in the remarks column or at foot of the account.)

(xvii) In writing up of Account A, the word “ditto” or its abbreviation “do” shall not be used.

324. As soon as each page of Account A is completely filled up, columns 4, 5, 6, 12, 13 and 14 will be totalled up by the Junior Superintendent or the Head Clerk (as the case may be) and such totals carried over to the next page at the top. While totalling the entries in each column, Junior Superintendent or the Head Clerk (as the case may be) should scrutinise every entry and bring defects or errors if any to the notice of the Registering Officer. At the close of each month, the grand total of these columns for that month will be struck first and the grand total up to the end of the previous month brought forward and totalled up. The resulting figures will show the number of documents of each class of books registered up to the end of the current month, with their total value, stamp duty paid and the total fees realised thereon. Both the Junior Superintendent or Head Clerk (as the case may be) and the Sub Registrar should attest the closing of the accounts each month with their signature. Red ink entries should be excluded while totalling.
325. A document presented for registration on the orders of Registrar or a court shall be treated as a fresh document and a note of the fact of registration as per such order shall be made in the remarks column or at foot of the page quoting such order.
326. Before proceeding to attend at a private residence, the Registering Officer shall note down the next assignable document number in each class of book and also the next pending number to be given such as P/5, P/6, etc. On presentation of the documents at the private residence, they may at first be given distinguishing letters like A, B, C, D etc. On completion of all the procedure at the private residence, if all the documents presented are admitted to registration, they will be assigned the correct document numbers in the correct sequence. If the documents or any of them are kept pending admission to registration, they will be assigned the pending numbers. On return to the office the Registering Officer will enter the general document numbers or pending numbers of the documents and all the other particulars in the respective columns of Account A. Documents accepted at a private residence, shall invariably be brought to account on the same day itself.
327. When fee is omitted to be levied or is short-levied, and is subsequently collected and accounted for, the number of the document with the date of acceptance will be entered in red ink and the fee entry in black ink, all other columns being left blank. A cross reference will be made by means of a foot-note against the original entry.
328. In the case of rectification, cancellation and supplemental deeds, the number, year and the nature of the original document will be shown in column 7. The value of

the original document shall be entered in red ink in the case of rectifications, supplemental deeds and documents re-registered on appeal or under section 24 of the Indian Registration Act.

- 329.** Copies or memoranda forwarded under sections 64 to 67 of the Indian Registration Act shall be shown in column 7 of Account A below the entry relating to the nature of the document and the date of despatch shall be noted against the fee entry. Copies and Memoranda must be prepared and forwarded to other offices on the date of registration of the document itself.
- 330.** When a sealed cover containing a Will is opened and transmitted to the registering section of an amalgamated office for transcription, a general number and document number shall be assigned to it in the account of the amalgamated office. The fee column shall be left blank. Remarks shall be added at foot of the page to the effect that the document was received from the Registrar's Office and returned to the same office for redeposit, the date of return being entered in column 18.
- 331.** When documents accepted for registration in an year, is transcribed and registered in the subsequent year the original entries in the 'A' account pertaining to such documents shall be carried forward to the new year, on the first working day itself, after giving fresh assignable numbers of that year to them. They should be so carried forward before fresh documents are accepted on that day. The fee columns in such cases, may be filled up in red ink. The original and the new number assigned should be denoted in the form of a fraction, the numerator being the new number and the denominator being the number originally assigned to it in the previous year.
- 332. Account B:—**
- (i)* Every fee other than those ledgered in Account A, C and D shall find a place in Account B.
- (ii)* The document number in the case of levy of safe custody fees or fines under section 25 or 34, and the number of the power attested in the case of powers of attorney, shall be shown in column 3. In the case of applications for attendances or other types of petitions, the petition number shall be noted in this column. When fee is ledgered in column 9, the account number under which the fee is levied, should be shown in column 4. In other cases, it need not be filled up as columns 5 to 8 are self explanatory.
- (iii)* Column 10 should show the date on which the document is made ready for delivery in the case of levy of safe custody fees, and the date of compliance in the case of private attendances. The period of delay shall be shown in this column in the case of levy of fines under section 25 or 34 of the Indian Registration Act. Suitable remarks may be added whenever necessary in the case of levy of fees ledgered in column 9.
- 333. Account C:—**
- Account C is a sort of suspense account. The items to be entered in this account are enumerated below:
- (i)* Deficit stamp duty and penalty, undisbursed pay and allowances, charges for sending documents, etc., by post, batta and travelling allowance for attendance at

private residences, subsistence allowance and batta and travelling allowances for witnesses, etc.

*(ii)* Any other amount received either by money order or through a messenger with a covering letter shall be ledgered in account C in the first instance and debits thereof to accounts A, B, D or E whether on the same day or subsequently, shall be indicated in the disbursement side.

*(iii)* When the relative disbursements of a collection do not appear on the same page or opening, a cross reference connecting the disbursement with the collection shall be given invariably.

**334.** On every occasion of a transfer of charge of an office both the credit side and the disbursement side of the account shall be totalled up, the total disbursements deducted from the total of the collections and the actual balance on hand struck before signing in token of handing over and taking over charge. Similarly, the balance on hand shall be struck at the close of the month and details of such balance exhibited by means of a note.

**335. Account D:—**

*(i)* In the case of a partial search made by one Registering Officer on the requisition of another Registering Officer to whom the application is made in the first instance, it shall be brought to account like any other general search the number allotted to it by the first officer being entered in red ink with the name of that office below the number assigned to it by the office conducting such partial search.

*(ii)* Applications for copies of entries in Books 1 to 4 and the indexes relating thereto or of documents pending transcription, etc., shall be distinguished by prefixing the letter 'C' and applications for copies of miscellaneous records by prefixing the letter to the numbers assigned to them. These numbers shall be in separate series.

*(iii)* Numbers assigned to general searches, single searches and copies shall be in separate series, commencing and terminating with each calendar year.

*(iv)* When a general search has to be conducted in more than one office, the date of despatch of copy of the application to the other office, shall be shown in column 10, the date of receipt of the encumbrance certificate from the other office, being shown in the same column as a denominator below the entry of the date of despatch.

*(v)* In the case of continuance of a single search within a week of the date last searched, the original search number shall be noted again in red ink in column 3 and a cross reference made in the remarks column, connecting the two entries.

*(vi)* In respect of a copy of a deposition or other miscellaneous records, the name of the records, the number assigned to it in the file, or when no such number is found assigned, the pages of the file or book shall be entered in column 12.

*(vii)* When deficit or additional fees are levied, cross reference shall be given against the entries, relating to the original and subsequent levy.

*(viii)* When a single search is found fruitless, the words "not found" shall be written after noting the date of completion of the search.

(ix) When searches and copies completely exempt from payment of fees are made, or fees at concessional rates are levied, suitable explanatory notes regarding such non-levy or concessional levy should be given at foot and connected to the entries concerned.

(x) In the case of ordinary general searches whenever additional fee is levied, the number of properties on which additional fee is levied with reference to rule 175 of the Registration Rules shall be noted in column 7 as “one additional property” or “two additional properties”, etc.

(xi) When copy of a Will is granted after the death of the testator, it should be noted as such in column 7, When granting copies of documents registered in Book 4, it should be specifically stated whether it is granted to the executant, claimant, or their representatives as the case may be, in column 7.

**336. Account E:—**

(i) This account is subsidiary to the despatch register. On the date of collection of postal charges from the parties, it should be brought to account both in account C and in this account. As soon as a document, encumbrance certificate or certified copy is ready for despatch, it should be weighed with the cover and the acknowledgement form, and postal stamps for the correct amount required for sending the cover by registered post (acknowledgement due) should be purchased and affixed to the cover. Service stamps should not be used for sending documents certified copies or encumbrance certificates by post. Copies and encumbrance certificates may however be despatched by “service unpaid” post if so desired by the parties in writing.

(ii) As the postage required for sending encumbrance certificates and certified copies cannot be correctly determined in advance, it is always desirable to collect a sum slightly in excess of the probable requirement. If any balance remains after sending the copy or encumbrance certificate by post, that sum may be returned to the party by money order. If the balance is too small to be sent by money order, it may be kept in suspense in account C till a claim is made by the party who should be informed of the fact.

(iii) If the postal acknowledgement is not received within a reasonable time, the Post Master should be addressed regarding the cover and quoting the number of the receipt issued by the Post Office.

(iv) On the left hand corner of the cover as well as on the acknowledgement form, the number of the document, encumbrance certificate or copy should be noted in ink for facilitating identification. When the postal acknowledgement is received, the date of receipt should be noted in column 8 and column 9 should be initialled by the Sub Registrar with date. When covers are returned undelivered by Post Office, the fact should be noted in the remarks column. The postal acknowledgement received should be pasted along with the office copy of the receipt.

**337. Account F:—**

Even though this is only a subsidiary account to be prepared from the entries in the other accounts it is a very important account requiring careful scrutiny and posting as it is a classified epitome of all items of work turned out daily in a Sub Registry Office.



- 338.** Before the close of the day, the Head Clerk should carefully and correctly post the figures in the relevant columns of this register, and place it before the Sub Registrar for his scrutiny and signature. At the end of the month various columns shall be carefully totalled and the entries closed for the month like other accounts.
- 339. Account G:—**  
This is a daily account showing the number of documents, certified copies, searches, etc. accepted, made ready for delivery, kept pending etc. It serves a dual purpose. A glance at this register would not only show the various transactions of each day and up to the end of the day in the calendar year, but would also give a fair indication of the state of efficiency of an office.
- 340.** The following instructions may be borne in mind while posting the figures in this account:
- (i)* Whereas col. 2 shows the actual number of documents presented for registration, col. 3 would show only those that are admitted to registration, documents kept pending admission to registration being accounted for in col. 14. Thus, the figures in col. 2 would always tally with the total of the figures in cols. 3 and 14.
- (ii)* Column 5 should show only the number of documents copied and made ready for return on the date of presentation itself while col. 7 would show the number of documents copied within the third day of presentation and would include the figures shown in col. 5. The number of documents copied after the third day excluding the figures shown in col. 7 should be exhibited in col. 9.
- (iii)* Column 4, 6, 8 and 10 would show the figures for the calendar year up to that date. Similarly columns 17, 22, 27 and 29 would show the figures for the calendar year up to the end of that date in respect of powers of attorney attested, certified copies prepared, encumbrance certificates made ready within five days and after 5 days respectively.
- 341. Account H:—**
- (i)* This is the daily account of all collections realised in an office by way of fees, etc.
- (ii)* Columns 2, 3 and 4 will include all fees realised for work done under the Indian Registration Act and column 5 will show fees realised under other enactments like the Cochin Kuries' Act and the Travancore Chitties' Act, etc. Column 6 should show the total of all fees realised and column 7 should show the progressive total of all collections by way of fees, etc., upto the end of that date in the calendar year. The amounts remitted into the treasury or the sub-treasury should be noted in column 8 on the date of remittance. Amounts kept in suspense in account C should be shown in column 9. Refunds, if any, should be shown in the remarks column.
- 342.** In addition to the account books mentioned in the foregoing orders. Sub Registrars administering Chitties (or Kuries) Act, Special Marriage Act, etc., will maintain separate account books as stipulated under those enactments (or rules) in the form prescribed.
- 343.** Rule 92(a)(i) of the Kerala Treasury Code (Vol.1) enjoins the maintenance of cash books in Form T.R.7 by every officer receiving money on behalf of the

Government. As such every Sub Registrar should maintain the above register in addition to the account books mentioned in this chapter.

344. Besides the above accounts a register shall be maintained in each Sub Registry Office in which the following particulars shall be entered in every month. The total fee realised against each item in a financial year shall be appended in the administration report.

<i>Particulars</i>	<i>No.</i>	<i>Fee realised</i>
I		Fee for registering documents-
	(a)	Documents for which fee for consideration amount at ad valorem rates had been levied.
	(b)	Documents for which fee had been levied on the value of the property. (Such as partition gifts etc.
	(c)	Documents for which fee had been levied as on the original
	(d)	Documents for which fee as per the original documents but subject to a maximum had been levied. (rectification deeds, ratification deeds, etc)
	(e)	Documents for which the fixed fee prescribed, had been levied
II	(a)	Extra copying fee
	(b)	Memorandum fee
	(c)	Fee for endorsing consideration amount
		<b>Total of I and II</b>
III	(a)	Attendance fee
	(b)	Safe custody fee
	(c)	Other miscellaneous items
		<b>Total of (a), (b) and (c)</b>
IV	(a)	Search fee
	(b)	Copying fee
		<b>Total of (a) and (b)</b>
V		Fee realised under the Chitty and Kuries Acts
VI		Other items if any

345. A similar register as above shall be maintained with regard to details of stamp duty realised, which should contain a classification of stamp duty realised under each of the following categories. The total number of documents and stamp duty realised under each category for the financial year should be appended in the administration report.

<i>No.</i>	<i>Categories of documents</i>	<i>No. of documents registered</i>	<i>Amount of stamp duty (including surcharge duty) realised</i>
1.	Documents for which stamp duty at conveyance rates as prescribed under Article 21 of the Kerala Stamp Act has been levied		
2.	Documents for which stamp duty at conveyance rates as prescribed under Article 21(a) of the Kerala Stamp Act has been levied		
3.	Transfer of mortgages with possession on which the maximum stamp duty prescribed has been levied		
4.	Documents for which stamp duty as prescribed for Bottomry Bonds have been realised		
5.	Documents assessable to stamp duty only on Bottomry Bond but for which the maximum prescribed has been levied (such as releases, transfer of mortgages, etc.)		
6.	Documents for which a fixed stamp duty has been prescribed (Eg:-Agreements, Divorce, etc.)		
7.	Other documents if any		
8.	Stamp duty levied on certified copies granted, on special powers of attorney attested, etc.		
9.	Total stamp duty realised under 1 to 8		
10.	Surcharge duty realised as per the Surcharge Register		
11.	Net amount of stamp duty		

### MONTHLY RETURNS

**346.** Accounts A to H will be supplied to each Registering Officer in books which shall be used continuously even after the termination of a calendar year. Entries of each month shall commence on a fresh page. Loose sheets of all the forms prescribed will also be supplied to the Registering Officers.

**347.** Each Sub Registrar shall send every month to the Registrar to whom he is subordinate, the undementioned copies of Accounts and Statements.

(1) Copies of Accounts A to G with an abstract of Accounts in Form No.69.

- (2) Statement of total remittances made under the different minor heads and detailed heads of accounts.
  - (3) Statement of expenditure in the month.
  - (4) Account of stamp duty levied as surcharge under Kerala Municipalities' Act and the Kerala Panchayats Act.
348. These returns should be submitted so as to reach the Registrar on or before the 5<sup>th</sup> of each month.

### AUDIT AND CHECK

349. *Accounts of Sub Registry Offices:—*

*Account A:—* The audit by the Internal Audit of the department shall include a scrutiny of the entries in order to ensure so far as the entries show, the points noted below:—

- (i) The acceptance of documents within the maximum period prescribed therefore, the due levy of the fine where necessary and its inclusion in Account B;
- (ii) The date of presentation is not anterior to the date of execution and that the date of execution is not anterior to the date of purchase of stamp;
- (iii) The correctness of the stamp duty and the fee as noted in Account A with reference to the nature and value of the document as given therein;
- (iv) The addition, of explanatory notes and cross references wherever necessary for the determination of the stamp duty or the registration fees and notes of refunds;
- (v) The collection of safe custody fees where leviable;
- (vi) The prompt issue of copies and memoranda;
- (vii) The correctness of classification into compulsory and optional groups;
- (viii) That the last general number of the month tallies with the sum total of the documents accepted in Books 1, 3 and 4.

350. *Account B:—* The audit shall be made in such a manner as to ensure that the fees levied are correct and that necessary details are given with reference to other miscellaneous fees.

351. *Account C:—*

- (i) The account shall be checked to ensure that deficit stamp duty, penalty, etc. collected under the Stamp Act are promptly remitted to the treasury/sub-treasury;
- (ii) that the receipts and disbursements tally;
- (iii) that Witness Batta, T.A. and Subsistence Allowance collected and disbursed are in order;
- (iv) and that necessary cross references are given.

352. *Account D:—* The audit shall be made in such a manner as to ensure:

- (i) that the fees levied are correct with reference to the years searched or the pages copied;
  - (ii) that in respect of searches in Books 3 and 4 explanations like “granted to the testator” or “granted after the death of the testator” “granted to the executant” or “granted to the claimant” etc. added to show how the applicant was entitled to the search or copy;
  - (iii) that cross references are given in the case of searches in which additional fees, etc. are levied;
  - (iv) that sufficient particulars are given by means of notes in cases where searches are conducted without fees, or on concessional fees;
  - (v) and that searches, etc., have been complied with and completed without delay.
- 353. (1) Account F:—** This account should be checked with the other accounts to ensure that every posting made is correct bearing in mind the fact that details for the Administration Report are to be collected from this account.
- (2) Account G & H:—** These accounts should be checked with accounts A to F carefully, as it is a gist of these accounts.
- 354.** The Internal Audit will follow such of these directions as are issued by the Inspector General of Registration from time to time, so that audit is rendered an effective and efficient machinery.
- 355. Monthly abstract of accounts:—** This should be checked with Accounts A and D to ensure that the total number of documents copied, returned, remaining unclaimed and applications for certified copies and General Searches accepted, complied with and remaining to be complied with, are shown correctly.
- 356. (1) Statement of Receipts and Remittances:—** This statement should be submitted in Form No.71. It should show all the collections remitted by the Office under the various minor heads in the major Head of account. Refunds, if any, in the month and the net receipt should be shown in separate columns.
- (2) Statement of Expenditure:—** This is actually a copy of the monthly total of all the entries in the “Disbursing Officer’s Register of Expenditure and Liabilities” for the month.
- 357.** The statements referred to in order No. 356(1) and 356(2) shall be signed at the end by the persons who prepare and check them and the Sub Registrar shall add a certificate in his own hand-writing above his signature that he has satisfied himself that the statements have been prepared correctly. The certificate shall be in the following form:
- “Certified that I have personally satisfied myself that the statement of receipts and remittances/statement of expenditure have been prepared correctly”.
- 358.** Along with the above statements, Sub Registrars of Non Treasury Stations will forward to the Sub Registrars of the stations where the Sub Treasury in which they remit their collections is situate, a detailed monthly statements of remittances, chalan-war, with the chalan number and date, and also a detailed statement of Bills cashed for the month (Form No.73) for verification with the Sub Treasury

figures. The Sub Registrar of the Sub Treasury Station will cause these figures as well as the figures of his office to be verified with the Sub-Treasury figures, deputing a clerk for the purpose, if necessary and submit the statements to the Registrar so as to reach him on or before the 15th of each month.

**359. District Accounts:**— Accounts 1 to 4 in the prescribed form (Form Nos.74 to 77) shall be maintained every Registrar's Office. They may be stitched into books with the forms supplied and brought into use in the beginning of each year. These accounts shall be totalled with progressive total of each month attested by the Head Clerk and the Registrar and true copies submitted to the Inspector General of Registration before the 5<sup>th</sup> of every month.

**360. Account 1:**— Account 1 pertains to all collections in the Registrar's Offices, the main heads being will covers deposited, registered and returned, searches and copies; powers-of-attorney attested and cancelled, deficit stamp duty and penalty and other sums creditable to other departments realised; private attendances made and appeals and applications filed. The last columns of the account detail acceptance and disposal of appeals and applications and also wills transmitted to courts and returned therefrom. Practically, every collection in a Registrar's Office, including those not to be remitted to the treasury is creditable to this account.

**361.** As regards crediting of fee relating to attendance at private residence in amalgamated offices, the following instructions shall be observed:

*(i)* Fees for attendance levied for accepting or registering a deed under section 30(1) of the Indian Registration Act by the Registrar, or Sub Registrar in the capacity of Registrar, shall be credited in the 'B' Account of the registering section. But the application shall be entertained, filed and report submitted from the supervising section with a remark in the report that fee has been credited in the accounts of the registering section. The thumb impression slips shall be pasted in the thumb impression register of the registering section. In Account 1, fee realised shall be entered in column 3 in red ink with the remark regarding the credit of fee in accounts of the registering section. The red ink entry need not be totalled. Suitable entries shall be made in columns 26 and 27.

*(ii)* Fee for attendance in respect of applications for attesting powers-of-attorney or deposit of wills, accepted either by the Registrar or Sub Registrar exercising powers of the Registrar, shall be credited in the supervising section and report submitted. Suitable entries shall be made in Account 1.

*(iii)* In cases where the application for private attendance is for both attestation and registration of the same power of attorney by the Registrar or by the Sub Registrar exercising powers of the Registrar as registration process is involved under section 30(1), of the Indian Registration Act, the fee shall be credited in the registering section in the concerned accounts. But the number assigned to the power attested shall be of the supervising section and abstracts shall be prepared there. In the 'B' Account of registering section the number 'column attestation' shall be left blank with remarks noting the number assigned in the other section. Report of attendance shall be submitted as provided for in (i) above.

*(iv)* In cases where a single application for private attendance is preferred for attestation of a power of attorney and registration under section 30(1) of the Indian Registration Act, of another document, the attendance fee and attestation fee shall

both be credited in the supervising section and the fee for registration and fee realised under section 30(1) of the Indian Registration Act be credited in the Registering Section. The report submitted shall also contain the details regarding the crediting of fee. In cases where the process is vice versa, i.e., when a power is presented for attestation, at a private residence, where the Registrar had proceeded to accept a deed under section 30(1) of the Indian Registration Act, the attendance fee and registration fee shall be duly credited in the registering section and the fee realised for attestation in the supervising section and suitable notes added in the attendance report.

362. In the matter of issue of receipts, the regular fee receipts should be drawn up as provided for in Registration Rule 123 from the concerned section where the amount has been actually credited.
363. In cases where details have to be entered in Account 1 with out actual credit of fee in the supervisory section, the fee realised shall be entered in red ink in the fee column with suitable remarks.
364. The various headings in the account are self-explanatory. Entries shall be made accurately as soon as a fee is realised or any action as referred to in the various headings takes place. Monthly and progressive totals shall be struck and attested by the Head Clerk and the Registrar.
365. **Account 2:**— This is a detailed monthly account of sealed covers containing wills deposited, opened and registered, returned at the request of parties and forwarded to courts. It also furnishes details of wills forwarded to and returned from courts and the balance left with the courts. The headings are clear enough and does not require any elucidation. The details in the column shall be entered correctly, numbers of wills and will covers given wherever necessary and attested by the Head Clerk and the Registrar.
366. **Account 3:**— Account 3 of the Registrar's Office holds details of the appeals and applications filed in the office, their disposal and balance. It is also a monthly account. In column 16 of the account, the numbers of the cases and nature of disposals as per headings given shall be noted.
367. **Account 4:**— Entries pertaining to searches, copies, powers-of-attorney attested, private attendance complied with are to be made in the first portion of Account 4. The second half of the account discloses the total collections, remittance and balance.
368. All amounts received to be kept under suspense, e.g. money order for copies or other purposes, travelling allowance for attendance at private residence, postal charges realised, etc., shall be credited and debited in the cash book (Common Form) maintained.
369. **Registers:**— Besides the register books, file books and indexes enjoined to be maintained under the Indian Registration Act and Rules issued thereunder and Accounts A to H and the two registers referred to above, the following are the registers generally to be maintained in Sub Registry Offices. Instructions regarding their maintenance are furnished in the various orders.

1. History of Office.
2. Permanent Record Register.
3. Temporary Record Register.
4. Ledger of Periodicals.
5. Furniture Register.
6. Deposition Book.
7. Subsidiary Index Register.
8. Register of Persons Exempted from Appearance in Civil Courts and Offices.
9. File of Powers of Attorney.
10. Register of Powers of Attorney.
11. Register of Documents Discredited by Civil Courts.
12. Chitty and Kuri Registers and Registers of Chitty Licences (Where the concerned Acts are in force).
13. Register of Kshatriya Marriages. [Where the Act (Travancore Act 7 of 1108) is in force.]
14. Registers to be maintained under the Birth and Death Registration Act (Act VI of 1886) and Civil Marriages Act.
15. Office Order Book.
16. Visitors' Book.
17. Acquittance Roll.
18. Attendance Register.
19. Punishment Register.
20. Register of Preparation and Examination of Indexes.
21. Minute Book.
22. Register of Impounded Documents.
23. Register of Revocation of Powers of Attorney.
24. Register of Records sent to Courts.
25. Register of Receipts and Collections.
26. Disbursing Officer's Register of Expenditure and Liabilities.
27. Current Register (Personal Register).
28. Register of Petitions.
29. Stock Book of Printed Forms.
30. Stock Book of Stationery Articles.
31. Bill Book.
32. Register of Surcharge Duty.
33. Contingent Register.
34. Register of Periodical Examination of Record Receptacles.
35. Register of Contents of Receptacles.
36. Vakkalath Declaration.
37. Register of Documents Pending Transcription.
38. Register of Unclaimed Documents, Certified copies and Encumbrance Certificates.
39. Remittance Register.
40. Register of Special Recoveries.
41. Register of Liabilities and Recoveries.
42. Refund Register.
43. T.A. Bill Register.
44. Office copy of Private Attendance Reports.
45. Service Stamp Account.
46. Chitty 'B' Statement.
47. Work Diary.
48. Register of Fines.
49. Register of Documents presented and admitted after the prescribed time.
50. Memo and Patta Transfer Application Book.
51. Despatch Register.
52. Casual Leave Register.
53. Kuthagapattom Register.
54. Register of Documents under-valued and action taken thereon.



370. Besides the above, all other registers and statements enjoined to be opened by specific orders of the Inspector-General, the Accountant-General or the Government from time to time shall be maintained.
371. Such of the above registers as relate to the work in the district offices, besides the registers relating to appeals and applications, will covers, personal registers of clerks and Accounts 1 to 4 are to be maintained in district offices.
372. Description of the records, files and registers, both permanent and temporary in all Registration Offices and the period of preservation of temporary records, is furnished in Appendix VI. All the registers and files for which provision is made and in which entries become necessary, shall be maintained carefully and up-to-date.

## CHAPTER XV

**Transfer of Revenue and Municipal Registry**

- 373. *Transfer of Revenue Registry:***— As provided for in Rule 30(iv) of the Registration Rules in every case of absolute transfer of landed property by a deed of conveyance or by any other kind of instrument registered in a Registration Office, it is the duty of the Registering Officer to obtain from the party presenting the instrument an application in the prescribed form for transfer of revenue registry of the land conveyed or transferred by the document.
- 374.** The application shall be in form No.58 or in such other form as prescribed from time to time in the Transfer of Revenue Registry Rules. If both the transferrer and transferee appear in the Registration Office, the Registering Officer may endeavour to obtain signatures from both of them in the application.
- 375. (a)** All such applications presented to a Registering Officer shall be given a serial number commencing and terminating with the calendar year, with the distinguishing letter “R” prefixed to them. These numbers shall be exhibited in column 10 of Account A against the concerned document numbers in the form of a fraction thus R/5, R/6 and R/7, etc.
- (b)** If two or more applications are received for one and the same document, these applications shall be given different numbers.
- (c)** If lands are situated in different villages, a separate application shall be obtained for the lands situated in each village.
- 376. (a)** All applications presented to Registering Officers shall be transmitted to the Tahsildars of the taluks concerned at such time and in such manner as prescribed by the Revenue Authorities in their transfer of Revenue Registry Rules.
- (b)** Whenever applications for transfer of Revenue Registry are forwarded to the Revenue Department either through the remittance peons, or through the post, a suitable entry shall be made in Account A in red ink on the day on which they are forwarded and initialled with date by the Registering Officer. The entry shall be in the following form:
- “Applications for transfer of Revenue registry No.s ..... to ....., received for documents admitted to Registration from ..... to ..... was forwarded to the Tahsildar on .....” (Initials of Registering Officer)  
(Date)
- 377.** The applications despatched from the offices shall not be defective in any way. Omissions of survey numbers and similar defects shall be avoided.
- 378. *Transfer of Municipal Registry:***— Every Registering Officer shall obtain and furnish the Executive Authority of each Municipality or Panchayat Board, levying house-tax in its jurisdiction with particulars of all the transfer of houses registered in his office.

- 379.** The applications shall be in form No.59.
- 380.** (a) applications to be forwarded to local Boards shall be numbered in a separate series for each calendar year with the distinguishing letter “M” prefixed to each.
- (b) If two or more applications are received for one and the same document these applications shall be given different numbers.
- (c) If houses are situated in different Panchayats and or Municipalities separate applications shall be obtained for the houses situated within the different local bodies.
- (d) All such notices, received during a month, shall be forwarded to the Executive Authorities of the Panchayat, on the first working day of the next month or at such other intervals as directed by the Inspector General of Registration.
- (e) In Account A, a note regarding the despatch of all the notices shall be entered on the day on which they are despatched the entry being initialled and dated by the Sub Registrar. The entry shall be in the following form, with suitable modifications;
- “M. Notice No.s ..... despatched to the Executive Officer .....  
Panchayath, M. Notice, Notice No.s ..... despatched to the  
commissioner ..... Municipality. All the notices were  
despatched on .....” (Initials) (Regn. Officer) (Date).
- 381.** The pokkuvaravu receipt book (Form No.24) same as memo receipt book, shall be used for forwarding the above two kinds of applications for which separate books shall be maintained. The acknowledgements obtained shall be pasted to the respective counterfoils. If the acknowledgements for the receipt of pokkuvaravu and M. Notice are not received within 15 days from the date of its despatch, reminders shall be issued once a week. In spite of the reminders, if the receipt is not acknowledged within 3 months from the date of despatch the fact shall be reported to the District Registrar for further action.
- 382.** The annual fee due from the Municipalities prescribed, if any, shall be collected by the Registering Officers, having jurisdiction over them before the 15<sup>th</sup> January each year and credited in Account B under “other receipts”. A report of the fact shall be made to the Registrar before the end of January each year.
- 383.** No office copies of the applications need be maintained.

## CHAPTER XVI

### Insufficiently stamped documents and Documents under-valued

#### 384. *Impounding of Documents:—*

(a) (i) All Registrars have been delegated with the powers of “Collectors” in respect of proceedings in connection with instruments impounded by them or by the Sub Registrars subordinate to them within the limits of their respective jurisdiction.

(ii) When a document is not duly stamped the Registering Officer shall impound it with reference to section 33 of the Kerala Stamp Act.

**NOTE:—** The definition ‘duly stamped’ means not only stamped with a stamp of the amount required by law, but also in the manner prescribed by law.

(b) If the party to a deed who is in doubt about the proper stamp, consults a registering officer on the subject before formal presentation, the required information may be given to him without impounding the document. It should be explained to the party at the same time that if he wishes to obtain an authoritative opinion, he must apply to the Collector under section 31 of the Kerala Stamp Act and the Personal Assistant to the District Collector, Revenue Divisional Officers and District Registrars have been appointed as Collectors for the purpose of section 31 of the Act.

385. (a) A register (in Form No.1) shall be maintained in each Registrar’s Office regarding the documents impounded by him.

(b) In every Sub Registry Office, a register (Form No.2) shall be maintained in which every document impounded, shall be entered on the date, the Registering Officer impounding the same Columns 12 to 19 need be filled up only on receipt of orders from the Registrar.

386. (a) (i) Every Sub Registrar impounding an instrument presented to him for registration and proceeding under section 34(b) of the Kerala Stamp Act shall, upon the payment of duty and penalty as prescribed in section 34(a) of the said Act send an authenticated copy of such instrument together with a certificate regarding the payment of the duty and penalty levied by him to the Registrar to whom he is subordinate. If the duty and penalty are not paid within seven days, the Sub Registrar shall send the original instrument to the Registrar with a statement in duplicate in the form maintained under sub-clause (b) of order 385 above, signed and dated by him. No covering letter is necessary.

(ii) Every Sub Registrar on impounding a document presented to him for registration and proceeding under section 37(2) of the Kerala Stamp Act shall send the instrument in original to the Registrar to whom he is subordinate, with a true copy (in duplicate) of the entries in Form No.2 specified in order 385(b) supra.

(b) If the Registrar is of opinion that an instrument forwarded to him by a Sub Registrar is duly stamped or is not chargeable with duty, he shall certify to that effect on the instrument and return it to the Sub Registrar.

(c) The Registrar if he is of opinion that an original instrument forwarded to him by the Sub Registrar, is not duly stamped shall inform the Sub Registrar of the amount of duty and penalty to be collected.

(d) On receipt of orders from the Registrar, with regard to the duty and penalty to be collected, the Sub Registrar shall inform the parties to the instrument amount the decision by the Registrar and also require to pay the deficit duty and penalty.

(e) When the deficit duty and penalty is received, it shall be credited in Account 'C' and receipt issued to the party. The fact of collection of the deficit stamp and penalty shall be reported immediately to the Registrar with particulars of the name and residence of payer and the date of payment.

(f) On receipt from the Sub Registrar of the intimation of payment, the Registrar shall certify on the instrument as required by section 41(1) of the Kerala Stamp Act and return it to the Sub Registrar.

(g) In case the parties do not respond to the notice issued under order (d) above, within the time fixed in the notice or if the party liable to pay the duty and penalty under section 31 of the Kerala Stamp Act, declines to pay the amount and the other party to the transaction is also unwilling to pay it, the Sub Registrar should report the matter to the Registrar.

(h) On receipt of this report from the Sub Registrar the Registrar shall intimate the fact to the Tahsildar concerned who shall immediately take steps for the recovery of the amount under the provisions of section 46 of the Kerala Stamp Act and inform the Registrar as soon as the amount has been realised.

(i) All reference to Board of Revenue by Registrars under the Kerala Stamp Act shall be submitted through the Inspector General of Registration.

**387. Adjudication:—**

(a) Each Registrar shall show in the register maintained under order No.385(a) particulars of all documents dealt with by him under the foregoing orders.

(b) In adjudicating the stamp duty on an instrument, the Registrar shall draw up a formal proceedings in his own hand, giving his reasons for the stamp duty fixed by him and quoting the article of the schedule of the Kerala Stamp Act under which the instrument falls. A certificate shall also be added on the document in conformity with the directions under the Kerala Stamp Act.

(c) The deficit stamp duty and penalty realised by a Registering Officer shall be duly accounted for and remitted as per separate triplicate chalan under the Account Heads *XIV Stamps-A-Non-judicial-(b) Duty on impressing documents* and *XIV Stamps-A-Non-Judicial-(c) Fines and penalties* to the treasury or sub-treasury as the case may be and the fact noted in the Register with the chalan number and date under the initials of the officer remitting the amount.

(d) A receipt in the usual form shall be granted for the amount received.

- 388.** When under exceptional circumstances an impounded document has to be forwarded to the Registrar before the admission of execution from the executant is obtained, a note shall be entered in the extract drawing attention to the stage at which the document was impounded and the necessity for its return after adjudication before the expiry of the time prescribed for the appearance of the parties to admit execution.
- 389. (a)** The Registrar shall be reminded when a document is about to be time-barred for registration.
- (b)** When a Sub Registrar, whose office is situated at the headquarters of the Registrar, forwards an impounded document to him, the cover containing the document shall bear in red ink a superscription to the effect that it contains a document and the acknowledgement of the receipt of the cover shall be obtained in the local delivery book. When a document is sent by post, it shall be sent registered post and the receipt furnished by the Post Office, shall be filed in the file of postal receipts.
- (c)** Before sending an impounded document to the Collector or Registrar, the person presenting the concerned document should be asked whether he desires to have a copy of the document made at his own expense in order to guard against the risk of loss in transit, at the same time explaining to him that by section 45 of the Kerala Stamp Act, the officer transmitting is not responsible for its loss, destruction or damage. A copy under this section should be stamped under article 22 of schedule to the Kerala Stamp Act and must be held not to come under the exemption (A) to that article as it is not expressly required by law to be made for record in any public office or for any public purpose. ms copy should be retained in the custody of the officer impounding the document
- (d)** Every Registrar shall submit to the Inspector-General not later than the 15th of the succeeding month, a report showing the amount of deficit stamp duty and the penalty collected in the previous month under section 41 of the Kerala Stamp Act.
- (e)** The certificate mentioned in section 41 of the Kerala Stamp Act shall be in the following form:-
- “I hereby certify that the proper/deficit stamp duty of Rs ..... and penalty of Rs ..... have been levied in respect of this instrument from (the name of the payer) ..... residing at .....”
- Station .....
- Date ..... Registrar/Collector.
- (f)** No instrument which has been admitted in evidence or registered upon payment of duty and penalty under section 34 of the Kerala Stamp Act by the Sub Registrar shall be returned to the party before the expiration of one month from the date of impounding; or if the Registrar has certified that its further detention is necessary and has not cancelled such certificate.
- (g)** practice of impounding documents after registration should as far as possible, be avoided as it is prejudicial to registration.

**390. Precautions against under-valuation:—**

(a) When a Registering Officer has reason to believe that all the circumstances affecting the stamp duty have not been fully and truly set forth in a document although the document appears to be sufficiently stamped with reference to the matter appearing on the face of it, or that there is a breach or violation of the Stamp Law or Rules framed thereunder, he shall after registering the document, report the matter to the District Collector through the Registrar.

(b) In reporting cases involving violation of the Stamp Law as required by the above clause, the original document which forms the subject of the report, shall accompany it.

(c) If the Registering Officer, while Registering a document has reason to believe that the value or the consideration has not been truly set forth in the instrument, he shall report the details to the District Collector under Section 45A of the Kerala Stamp Act. However, the fact that a report has been made to the Collector shall not in any way block the action to be taken under the Registration Act.

(d) Every Registering Officer shall keep a register called “Register of cases reported under Section 45A of the Kerala Stamp Act”, in the following form, in which the details of document for which action taken under Section 45A shall be recorded.

**391. Certification of Documents under section 16 of the Stamp Act:—**

(a) Section 16 of the Kerala Stamp Act authorises Registering Officers to denote the stamp duty borne by the prior document.

(b) The certificate under Section 16 of the Kerala Stamp Act, shall be added by endorsement under the hand of the registering officer if and only if, the originals of both the instalments are produced, at the time of registration. A normal application is not necessary for certifying the stamp duty under Section 16 of Kerala Stamp Act.

(c) (i) A certificate under section 16 of the Kerala Stamp Act may usually be required in respect of the following categories of documents:-

(1) Counter-parts, (2) Duplicates, (3) Supplemental deeds, (4) Sales in favour of mortgagees stamped under the last proviso to section 25 of the Kerala Stamp Act, (5) Further charge with possession on simple mortgage, (6) Auxiliary, collateral, additional and substituted security, (7) Lease, partition and settlement stamped under the provisions to article 33(c), 42 and 51 respectively of the Kerala Stamp Act, 1959 and (8) Lease deeds executed in to favour of mortgagees without possession falling under the explanation to article 36 of the Kerala Stamp Act.

**NOTE:—** A certificate is unnecessary in respect of transfers of mortgages.

(ii) (a) The certificate on item (4) above, shall be in the following form:-

*“I hereby certify that on production of the Mortgage deed executed in favour of the vendee/or the person from whom the vendee has obtained the mortgage right in respect of property dealt with herein, I have satisfied myself that the stamp duty of Rs. .... has been paid therefore.”*

(b) The certificate in respect of item (8) shall be the same as in clause (a) above with the word 'lessee' substituted in the place of 'vendee' wherever that word occurs.

(c) The certificate entered on documents other than those mentioned in items (4) and (8) shall be in the following form:

*"I hereby certify that on production of the original instrument ..... (Name of Office, Number and Year of Document and its nature) I have satisfied myself that the stamp duty of Rs. .... has been paid therefore."*

(d) For the purpose of calculating the stamp duty payable on the instrument on which the certificate referred to in clause (c) is added, the duty payable and not what is paid in excess if any on the original instrument under the Law then in force and in the case of a partially discharged mortgage, the duty payable on the undischarged amount due in accordance with the law in force at the time of the execution of the mortgage shall alone be deducted.



## CHAPTER XVII

**Unclaimed Documents**

392. (a) In every Registration Office a Register shall be maintained to show all documents, registered or refused, lying unclaimed for which safe custody fee is leviable and certified copies and encumbrance certificates which are returned undelivered by post office.
- (b) When the presentant of an application for a certified copy or encumbrance certificate is himself to take delivery of the certified copy or encumbrance certificate or when he authorises any other person to take delivery of the certified copy or encumbrance certificate a note shall be entered at foot of the receipt stating that unless the certified copy or encumbrance certificate, as the case may be, is not taken delivery within a week from the date on which they become ready for delivery, they will be sent by post "service unpaid".
393. (a) Documents destroyable under section 85 of the Indian Registration Act, an unclaimed encumbrance certificates and certified copies, shall be destroyed once a year during January. They shall be destroyed on or before the 15<sup>th</sup> of the month. The destruction shall be by burning and it shall take place in the immediate presence of the Sub Registrar.
- (b) A clerk placed in charge of an office, shall not destroy them. In such cases, the destruction shall be deferred until a Sub Registrar assumes charge and when he assume charge, the documents shall be destroyed provided such destruction can be done before the 15<sup>th</sup> January of that year.
394. *Issue of notice to the party before destruction:*— No document of which the destruction has been authorised by section 85 shall be destroyed without the previous sanction of the Registrar, nor until notice has been issued in writing to the party entitled to receive back the document. This order holds good in the cases of unclaimed encumbrance certificates and certified copies also.
395. (a) *Formalities to be observed before destruction:*— Every year on the first day of September a list of all unclaimed documents, encumbrance certificates and certified copies, which are liable to be destroyed in January of the succeeding year, shall be prepared by the Sub Registrar and submitted to the Registrar of the District in triplicate. The list shall be prepared in Malayalam. When a language other than Malayalam is also used in a sub-district, the list shall be prepared in that language also. An office copy of the list need not be retained by the Sub Registrar. But a copy of the same shall be exhibited in the notice board of his office as contemplated in Rule 221 of the Registration Rules. The list shall be scrutinised by the Registrar and if any defect is noticed, the list shall immediately be returned to the Sub Registrar for necessary correction. Care shall be taken to see that no document, etc., which is not ripe for destruction is included in the list. The Registrar shall, after verification forward one copy of the list to the Superintendent of Government Presses, Trivandrum, not later than 1<sup>st</sup> of July with a draft notification signed by him and a covering letter requesting the Superintendent to publish it in the Government Gazette. It shall be specified in the Notification that

the document etc., are liable for destruction, if not taken delivery of before 1<sup>st</sup> of January of the succeeding year.

(b) Wills shall not be in the list of documents proposed for destruction.

(c) The Head Clerk or Junior Superintendent, as the case may be, of the office shall be responsible for the timely transmission of the list for the Press.

396. (a) The publication of the list in the Gazette shall be watched by the Registrar. He will assure that the particulars contained in the list published, agree with those in the copy retained in his office. If any mistake is noticed in the list published, necessary erratum notification shall immediately be caused to be published. The Registrar shall, on satisfying himself that the list published are free from mistakes, return one copy of the list to the respective Sub Registrar with the orders of sanction of destruction endorsed thereon. He shall retain the other copy in his office with the office copy of orders of destruction. The list together with the orders of the Registrar, sanctioning the destruction shall be filed in the office, to which it relates.

(b) The Sub Registrar shall also watch the publication of the list in the Gazette. The fact of publication of the list in the Gazette shall be brought to the notice of the District Registrar, by the Sub Registrar, as soon as the list is published. The Head Clerk or Junior Superintendent, as the case may be, shall be responsible for the various steps to be adopted by the Sub Registrar, so that the documents are destroyed well in time.

397. On receipt of orders sanctioning destruction, the Sub Registrar shall issue a notice to the party concerned regarding the destruction of the document, encumbrance certificate or copy, as the case may be.

398. No document, encumbrance certificate or copy shall be destroyed before the expiry of at least 14 days after the issue of notice referred to in order 397 above.

399. At the time of destruction of a document etc., a final scrutiny shall be made by the Registering Officer, to ensure that no document, etc., other than that proposed for destruction, is destroyed. In the case of documents, they shall invariably be compared with the register book entries before they are destroyed.

400. *Noting fact of destruction in accounts:*— In the case of every document destroyed, besides the notes in the Register book contemplated in Rules 224, of the Registration Rules the date of destruction with the word 'Destroyed' shall be entered in Account A in the column 'date of return'. Similar entries shall also be made in the register of unclaimed documents and on the back of the duplicate of the concerned receipt.

401. In the case of unclaimed encumbrance certificates and copies, as the acknowledgements are to be obtained on the applications (Order No.565) the notes of destruction shall be entered on the respective application also.

402. When proposing documents for destruction in July those unclaimed documents which would be ripe for destruction on or before the 31<sup>st</sup> December of the year, should also be included in the list documents to be destroyed in the succeeding January. For example:- A document registered on 31<sup>st</sup> December 1959 will be contemplating the period of two years on 31<sup>st</sup> December 1961. Hence, it has to be

included in the list prepared in September 1961, so as to be destroyed in January 1962.

403. A document included in the list shall be returned to the party, if he applies for it.
404. The same principles enunciated in orders 402 and 403 above would apply to unclaimed copies and encumbrance certificates also.
405. Although unclaimed documents, encumbrance certificates and copies are included in the same register and the same procedure is followed for their destruction, safe custody fee as per article IX(1) of the Table of Fees shall be realised only for documents returned to parties at their request.
406. The notes of destruction entered in register books shall in the prescribed form (Form No.36) authenticated with date by the Registering Officer.
407. The fact of destruction with date shall be noted in the list of sanction and a report submitted to the Registrar who shall note the fact of destruction with relevant details in the list retained by him.

## CHAPTER XVIII

**Presentation of documents and appearance of parties**

- 408. Mode of calculation:—** The time allowed for presentation of documents and appearance of executants under section 23, 25 and 34 of the Indian Registration Act shall be calculated by Government Calendar. In calculating the above period, the date of execution shall be excluded in accordance with the provision contained in section 9(i) of the General Clauses Act, 1897.
- 409.** If the last date allowed for the presentation of documents and appearance of parties with reference to the above sections, happens to be a holiday they shall be considered as done in due time if the document is duly presented or appearance made on the next working day. [Section 10(i) of the General Clauses Act].
- NOTE:—**
- (i) The above concession is not applicable to the subsequent periods of delay in presentation or appearance if any occur.
- (ii) The above concession is also applicable to the time limit of one week referred to in Note I to article XI of the Table of Fees.
- 410.** A Sub Registrar with whom an application under section 25 or 34 of the Indian Registration Act is lodged shall forward the application to the Registrar along with a statement taken from the party. There is no objection in allowing the presentation or recording the admission of execution when the application to the Registrar for condoning the delay is presented along with the payment of the prescribed fine. The Registering Officer shall register or refuse registration only after orders are received from the Registrar on the application.
- 411.** The acceptance of the document for registration after the expiration of the period mentioned in the Indian Registration Act, has been held to be not a mere defect in procedure within the meaning of section 87 of the said Act. The Registering Officer who registers a document so presented, acts without authority.
- 412. (a)** There is no limitation for recording certificate of registration or refusal provided all the requirements of the Indian Registration Act have been complied with in matters for which a limitation of time is provided.
- (b)** The period of time necessary for obtaining adjudication of stamp duty under the stamp Act cannot be discarded from the periods prescribed in sections 23, 24, 25 and 34 of the Indian Registration Act; but there is no objection to the completion of the registration of a document which has been impounded and forwarded to a Registrar and which is received back from him after the expiration of the time prescribed: provided that the document has been presented and execution has been admitted within the periods prescribed in those sections.
- (c)** Where an insufficiently stamped document is presented by the claimant and the executant does not appear of his own accord to admit execution, summons for his appearance may be issued with reference to rule 38(iii) of the Registration Rules and his admission of execution recorded on the document before the document is impounded and forwarded to the Registrar.

- 413. (a)** When a document is presented under section 23 of the Indian Registration Act i.e. within the prescribed period of four months from the date of execution, the executant must appear or the presentant must take action under section 36 of the Indian Registration Act for the appearance of the executant before the lapse of the full period of 4 months. If the executant does not appear and the presentant does not take action under section 36, the Registering Officer should refuse registration of the document under section 34 of the Indian Registration Act immediately the statutory period of four months is over.
- (b)** Action to taken by the presentant with reference to the above order is to request the Registering Officer to take steps for enforcing the appearance of the executants, or to grant him further time to present them within the prescribed period of four months. This should invariably be in written applications or by depositions tendered before Registering Officers.
- (c)** For the registration of a document the acceptance of which has been directed by the Registrar under section 25 of the Indian Registration Act on payment of fine, a period of four months is admissible in addition to the ordinary period of four months prescribed in section 23 of the Indian Registration Act. The executant must accordingly appear to admit execution or the presentant must take steps under section 36 to secure his presence within eight months from the date of execution. If the executant fails to so appear, a further period of four months for his appearance may be granted by the Registrar on payment of fine under the proviso to section 34 of the Indian Registration Act. But as explained in (a) above, if the executant does not appear within eight months i.e. the period extended by the Registrar under section 25 and the presentant does not take action under section 36, the Registration of the document should be refused under section 34 of the Indian Registration Act at the end of eight months from the date of execution.
- (d)** Deduction of a fine from another fine levied subsequently is permissible only in cases of admission at different intervals of the period of fine.
- 414.** A document executed by parties some of whom reside in, and some, out of India, may be dealt with under sections 23 and 25 instead of under section 26 of the Indian Registration Act, if the presentant so desires.
- 415.** Where an agent appears to present a document or to admit its execution, the explanation for delay in presentation (as required by section 25 of the Indian Registration Act), or for delay in appearance (as required by section 34 of the Indian Registration Act) may be obtained from him for the delay caused by both principal and by himself.
- 416.** The appearance of an executant referred to in section 34 of the Indian Registration Act is not restricted to his voluntary appearance but includes also his appearance under coercive process. Accordingly, whether the executant appears voluntarily or under coercive process, the delay in his appearance should be proved to be due to the causes mentioned in the proviso to that section.
- 417.** Where a Registrar had passed an order directing that a document be accepted for registration on payment of the prescribed fine under section 25 of the Indian Registration Act, it was held that it was not competent for the successor in office of the Registrar to go behind the order of his predecessor which was given in

pursuance of the discretionary power allowed to a Registrar to accept documents for registration after the time prescribed.

- 418.** When a document the registration of which has been refused for delay in presentation or in appearance, is re-presented for registration under an order passed by a Registrar on appeal or under an order of a civil court— a penalty shall be leviable for the delay based on the date of original presentation or appearance.
- 419.** For the purpose of section 77 of the Indian Registration Act, period of thirty days within which a document has to be presented for registration after the passing of a decree of a court directing its registration, shall be reckoned not from the date of the decree but from the time it was actually drawn up and signed by the judge.
- 420.** (a) Document whose registration is directed by a court under section 77 of the Indian Registration Act must in the ordinary course presented within 30 days after the passing of the court's decree. But this period may be extended in exceptional circumstances, by the Registrar when it is shown to his satisfaction that presentation could not be made within the prescribed time due to circumstances over which the applicant for registration had no control e.g., when he was unable to get back the document from the court or when a copy of the decree could not be had until after the expiration of the thirty days. In such cases, the Registrar may direct the Sub Registrar to accept the document and register it.
- (b) A register for recording delay in presentation and of admission of execution of documents, shall be maintained in Form No.6.
- 421.** *Fines for presentation and appearance after the prescribed period:—*
- (a) The fee for the registration of a document and the penalty if any, leviable under sections 25 and 34 of the Indian Registration Act shall be collected from the party before the statement as referred to in order 410 is submitted to the Registrar. In cases where the Registrar declines to direct registration, the fee and the fine shall be refunded to the party and if on appeal the Registrar or a court directs registration, the fee and fine originally levied, shall be collected afresh from party.
- (b) When an executant of a document appears after the prescribed time (section 34) the Registering Officer shall ascertain from him, the reason for the delay in appearance and after recording such reason shall call upon him to pay the penalty. Should he be unwilling to do so, the claimant shall be called upon to pay the penalty whether or not he be present at the time of the executant's appearance and the Registering Officer shall obtain from him an application for registration under section 34 of the Indian Registration Act and forwarded it to the Registrar together with the executant's explanation for the delay. In the event of the claimants not being present at the time of the executant's appearance, there is no objection to the executant's admission of the execution being recorded before the collection of the penalty from the claimant.
- (c) Any delay occasioned through the reference contemplated by order 386(c) shall in no way exempt any document from payment of fine for delay in the admission of execution.
- 422.** *Enforcement of Appearance of Executants and witnesses-issue of Process:—* A requisition for the enforcement of the appearance of a person before a Registering Officer shall be in writing and shall be accompanied by the fee payable.

423. (a) Registering Officers shall issue summons in Form No.15 to parties and witnesses whose presence is required for any enquiry under the Indian Registration Act.

(b) Extracts from the provisions of the Indian Civil Procedure Code in the matter of the issue and services of process are given below.

424. The same power exists under section 39 of the Indian Registration Act for compelling the attendance of an executing party before the Registering Officer as that which the law gives for compelling the attendance of a witness before a Civil Court.

NOTE:— The term “Law in force” in section 39 of the Indian Registration Act means the law in force as to summons and compelling the attendance of witnesses and commissions as given in Orders XVI and XXVI of the first schedule of the Code of Civil Procedure, extracts of which are given in Appendix VII.

**Extract from the 1<sup>st</sup> schedule- Order V of the Civil Procedure Code**

4. No party shall be ordered to appear in person unless he resides

- (a) Within the local limits of the court’s ordinary original jurisdiction, or
- (b) Without such limits but at a place less than fifty or (where there is railway or steamer communication or other established public conveyance for five-sixth of the distance between the place where he resides and the place where the court is situated less than two hundred miles distance from the court house.

\* \* \* \* \*

6. The day for the appearance of the defendant shall be fixed with reference to the current business of the court, the place of residence of the defendant and the time necessary for the service of the summons; and the day shall be so fixed as to allow the defendant sufficient time to enable him to appear and answer on such day.

\* \* \* \* \*

10. **Mode of service:**— Service of summons, shall be made by delivering or tendering a copy thereof signed by the Judge or such officers as he appoints in this behalf and sealed with the seal of the court.

11. **Service on several defendants:**— Save as otherwise prescribed where there are more defendants than one, service of the summons shall be made on each defendant.

12. **Service to be on defendant in person when practicable or on his agent:**— Wherever it is practicable, service shall be made on the defendant in person, unless he has an agent empowered to accept service in which case, service on such agents shall be sufficient.

13. **Service on agent by whom defendant carries on business:**—

- (1) In a suit relating to any business or work against a person who does not reside within the local limits of the jurisdiction of the court from which the summons is issued, service on any manager or agent, who at the time of service, personally carries on such business or work for such person within such limits shall be deemed good service.

(2) For the purpose of this rule the master of a ship shall be deemed to be the agent of the owner or charterer.

\* \* \* \* \*

15. **Where service may be on male member of defendant's family:**— Where in any suit the defendant cannot be found and has no agent empowered to accept service of the summons on his behalf, service may be made on any adult male member of the family of the defendant who is residing with him.

**Explanation:**— A servant is not a member of the family within the meaning of this rule.

16. **Persons served to sign in acknowledgement:**— Where the serving officer delivers or tenders a copy of the summons to the defendant personally or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgement of service endorsed on the original summons.

17. **Procedure when defendant refuses to accept service or can. not be found:**— When the defendant, his agent or such other person as aforesaid refuses to sign the acknowledgement or where the serving officer, after using all due and reasonable diligence, cannot find the defendant, and there is no agent empowered to accept service of the summons on his behalf, nor any other person on whom service can be made, the serving officer shall affix a copy of the summons on the outer door or some other conspicuous part of the house in which the defendant ordinarily resides or carries on business or personally works for gain and shall then return the original to the court from which it was issued with a report endorsed thereon or annexed thereto stating that he has so affixed the copy, the circumstances under which he did so, and the name and address of the person (if any) by whom the house was identified and in whose presence, the copy was affixed.

18. **Endorsement of time and manner of service:**— ne serving officer shall in all cases, in which the summons has been served under rule 16 endorse or annex, or cause to be endorsed or annexed on or to the original summons, a return stating the time when and the manner in which the summons was served and the name and address of the person (if any) identifying the person served and witnessing the delivery or tender of the summons.

19. **Examination of serving officer:**— Where a summons is returned under rule 17, the court shall, if the return under that rule has not been verified by the affidavit of the serving officer and may if it has been so verified, examine the serving officer, on oath or cause him to be so examined by another court, touching his proceedings and may make such further enquiry in the matter as it thinks fit; and shall either declare that the summons has been duly served or order such service as it thinks fit.

20. **Substituted service:**—

(i) Where the court is satisfied that there is reason to believe that the defendant is keeping out of the way for the purpose of avoiding service or that for any other reason the summons cannot be served in the ordinary way, the court shall order the summons to be served by affixing a copy thereof, in some conspicuous place in the court house, and also upon some conspicuous part of



the house (if any) in which the defendant is known to have last resided or carried on business or personally worked for gain, or in such other manner as the court thinks fit.

(ii) **Effect of substituted service:**— Service substituted by order of the court shall be as effectual as if it had been on the defendant personally.

(iii) **Where service substituted time for appearance to be fixed:**— Where service is substituted by order of the court, the court shall fix such time for the appearance of the defendant as the case may require.

24. **Service on defendant in prison:**— Where the defendant is confined in a prison. the summons shall be delivered or sent by Post or otherwise to the officer-in-charge of the prison for service on the defendant.

25. **Service where defendant resides out of India and has no agent:**— Where the defendant resides out of India and has no agent in India empowered to accept service, the summons may be addressed to the defendant at the place where he is residing and sent to him by Post if there is postal communication between such place and the place where court is situate.

\* \* \* \* \*

27. Where the defendant is a public officer (not belonging to the Indian Military, Naval or Air Forces) or is the servant of a Railway Company or local authority, the court may if it appears to it, that the summons may be most conveniently so served, sent it by registered post pre-paid for acknowledgement for service on the defendant to the Head of the Office in which he is employed, together with a copy to be retained by the defendant.

28. Where the defendant is a soldier, sailor or airman, the court shall send by registered post pre-paid for acknowledgement, the summons for service to his Commanding Officer together with a copy to be retained by the defendant.

29. **Duty of persons to whom summons is delivered or sent for service:**—

(1) here a summons be delivered or sent for service under rule 24, rule 27 or rule 28, such person shall be found to serve it, if possible and to return it under his signature, with the written acknowledgement of the defendant and such signature shall be deemed to be evidence of service.

(2) Where from any cause service is impossible, the summons shall be returned to the court with a full statement of such cause and of the steps taken to procure service and such statement shall be deemed to be evidence of non-service.

30. **Substitution of letter for summons:**—

(i) The court may, notwithstanding anything hereinbefore contained, substitute for a summons, a letter signed by the Judge or such officer as he may appoint in this behalf, where the defendant is in the opinion of the court, of a rank entitling him to such mark of consideration.

(ii) A letter substituted under sub-rule (i) shall contain all the particulars required to be stated in a summons and subject to the provisions of sub-rule (iii), shall be treated in all respects as a summons.

(iii) A letter so substituted may be sent to the defendant by post or by a special messenger selected by the court or in any other manner which the court thinks fit; and where the defendant has an agent empowered to accept service the letter may be delivered or sent to such agent.

- 425.** Sub Registrars shall not require parties to execute bail bonds for their appearance at adjourned enquiries. Under rule 16(1) of Order XVI in the first schedule to the Civil Procedure Code, a person summoned and attending is bound, unless the court otherwise directs, to attend at each hearing until the suit has been disposed of, and under rule 4(2) of the same Order, where the detention of a witness beyond one day, is necessary, the party at whose instance he was summoned, should defray the expenses of his detention for the further period. Under these provisions, it should be possible to procure the attendance of witnesses from day to day, if such attendance is necessary, failure to so attend being reported to the local Sub Magistrate for action. When however, the enquiry is adjourned to a distant date, the proper course for the Sub Registrar is to cause a fresh summons to be issued unless the party undertakes to produce the witness.
- 426.** A requisition for a summons for enforcing the attendance of a person resident beyond the limits of India, cannot be complied with. A Registering Officer may however issue a notice by registered post and if the executant does not appear within a reasonable time may refuse registration treating the non-appearance of the executant as tantamount to denial of execution.
- 427. (1)** When processes are to be written in language other than Malayalam:-
- (a) When processes are issued to be executed and served in territories beyond the Kerala State, they should be written in the language of the district in which they have to be served or in English.
  - (b) All processes issued against Europeans and Americans shall be in English or English translations shall be attached to the vernacular originals.
- (2) *Process when minors are concerned:***— When some of the defendants concerned are minors represented by the same guardian it is not necessary to issue separate processes to each minor, but it is enough if one process alone issued to the guardian as representing the minors. If however, the guardian is made a party in his Individual capacity also, then a separate summons should be issued to him in that capacity.
- (3) Service of process on Government Servants:-** When there is occasion to issue a summons to any Government Servant as a witness, the summons shall ordinarily be sent in duplicate to the Head of the office in which such person is employed with a letter for favour of service and such Head of the office shall thereupon cause the summons to be served on the witness and shall return it under his signature. In the case of village officer the summons may be sent through the Tahsildars, in the case of Heads of offices who are not Heads of departments through their immediate superiors and in the case of Heads of departments through the Secretary to Government.
- (4)** When charges for the transmission of processes by post, are levied from the parties in each case the processes in each such case should be sent separately, each party being made to bear the entire charge for the service of his process.

(5) In regard to scale of processes extracts from notification No. B 1-8307/58 dated 7<sup>th</sup> January 1960 issued by the High Court of Kerala, is added below.

Nature of process	Amount leviable	
	In the Munsiff's Court	In the subordinate Judge's Court and District Courts
(1)	(2)	(3)
	<i>Rs.P.</i>	<i>Rs.P.</i>
1. For each summons or notice,		
(a) When sent by registered post, for each defendant, respondent or witnesses	2.00	2.00
(b) When served by an Officer of the Court—		
(i) On a defendant, respondent or a witness	1.00	1.25
(ii) On every additional defendant, respondent or witness residing in the same village, if the process be applied for at the same time	0.50	0.75
(c) When handed over to a party for service on a witness or witnesses	One half of the fee under clause (a) or (b) supra.	

- NOTE:**— (i) “Defendant” herein includes a judgement-debtor or a counter-petitioner.
- (ii) In cases in which there are several minor defendants or respondents represented by a single guardian, there shall be a single service upon such guardian and only one fee shall be chargeable therefore.
- (iv) When a process under clause (a) or (b) supra is to be sent to any country outside India by airmail, the amount of fee leviable shall be 50 paise + the actual postal charges which shall be deposited by the party in the shape of postal stamps.
- (v)

Nature of process	Amount leviable	
	In the Munsiff's Court	In the subordinate Judge's Court and District Courts
(1)	(2)	(3)
	<i>Rs.P.</i>	<i>Rs.P.</i>
III. (a) Warrant or proclamation, attachment of sale under Order XVI rules 10 and 12 C.P.C. for one party or witness.	1.00	2.00
(b) Do. for every additional party or witness residing in the same village if the process be applied for at the same time	2.00	2.00
VII. In the case of every warrant of arrest, proclamation, attachment, sale or delivery of property additional fee for the service of every officer entrusted with the warrant for each day, after the third day beginning with the day on which the warrant was issued:		
(a) If such Officer is an Amin	0.50	0.75
(b) If such Officer is a process server	0.25	0.50

Such additional fees for each day after the third day shall ordinarily be collected in advance, the journey being calculated at the rate of 30 miles a day.

**NOTE:**— (1) For process applied for and ordered to be executed as emergent, the fee will be the ordinary fee and half as much again.

- (2) The scale shown in column (2) is applicable to issue of process by Sub Registrars and that shown in column (3) to issue of process of Registrars.

**(7) Stamps for process fees:**— All process fees should be realised in court-fee stamps. No refunds will be allowed on spoiled, unused, etc., labels purchased for purposes of process.

**(8) Princess shall be signed by the Registering Officers themselves in the case of processes issued from the Sub Registry Offices:**— In the case of the office of the Registrar, the Registrar may authorise the Sub Registrar, of the amalgamated office to sign processes for Registrar 'By Order'.

**(9) Return of service:**—

- (i) The return of the serving officer shall state the manner in which the process was served and the place, time, day and month of service; and also whether he is personally acquainted with the person served and if not, by whom such person was identified.

When the acquittance of witnesses is taken on the back of the summons on payment of expenses to them, the amount received by them should invariably be specified.

Whenever unserved to witnesses are returned from other offices without the unexpended batta and if the unexpended batta in respect of the said process is not received within a week, the officer concerned should be reminded for the return of the said amount.

- (ii) If the person to be served refuses to sign the acknowledgement of service, the return shall state that he was informed of the nature and contents of the process and in the case of a plaint, that upon applying to the officer of the court, he could obtain a copy or concise statement of the contents of plaint.
- (iii) When processes issued for service to other officers are not returned within the date of hearing or within a reasonable time, say one week, after the hearing date, remainders ought to be sent to the officers concerned, requesting for the return of the processes; and the Registering Officer in the case of Sub Registry offices and the amalgamated Sub Registrar in the case of the Registrars' Offices should occasionally scrutinise the process registers for the purpose of ensuring such reminders and the return of the money that may be due with reference to processes returned unserved.

**(10) Verification of return:**— The return of service shall be verified by the affidavit of the serving officers. If the process server is not personally acquainted with a person to be served, the return shall be supported by an affidavit of a person identifying him or by a report signed by a Village Officer.

**(11) Service by affixing to outer door:**— If a process is affixed to the outer door of a house in the absence of the person to be served, the serving officer shall make an affidavit as to the following matters:-

- (i) The number of times and dates and hours at which he went to the house;
- (ii) The attempts made by him to find the person to be served;

- (iii) Whether he had any, and what reason to suppose that such person was within the house or its neighbourhood or endeavouring to evade service;
- (iv) Whether any adult male member of the family of the person to be served was residing with him.

**(12) Notice when summons affixed to outer door.**— If a summons to a plaintiff is affixed to the outer door of a house, the serving officer shall affix therewith notice that the defendant can, upon application, to the officer of the court, obtain a copy or a concise statement of the contents of the plaint and shall in his return, state that he has done so and shall return the plaint or concise statement to the court. If the summons has been sent by another court for service and the defendant does not within 14 days from the affixing of the summons, apply for the said copy, it shall be returned to the said court.

**(13) Defects in process service:**— Attention is invited to the following defects in the methods of effecting service which are of frequent occurrence:-

- (i) Affixing process to the house or some part of it instead of to the outer door (Order V, rule 17 of the Indian Civil Procedure Code). It is well-known that many native huts or houses have no outer doors. In such cases, the fact should be stated in the server's endorsement and service shall be effected by affixing the summons on the hut or house.
- (ii) Absence or irregularity of endorsement by the serving Officer.
- (iii) Omission to state in the return whether there was any adult male member in the house or not prior to posting (Order V, rule 15 of the Indian Civil Procedure Code).
- (iv) Delay in returning process after service.
- (v) Delivering a summons to a defendant when he refuses to sign.
- (vi) Delivering process to persons who are not adult members in the absence of the defendant.
- (vii) Returning processes when they might have been served on an adult male member or posted.

**(14) Order of issue of Process:**—

- (i) Processes must be issued for service as a rule, in the order of the receipt of applications for the same, preference of course being given to those with emergent batta and those ordered by the Presiding Officers for special reasons.
- (ii) Within three days from the admission of any proceeding in respect of which summons or notice is to be issued by the office to any person or such other period as may be fixed by the Presiding Officer, the party presenting the same, shall bring into office the stamped application for service.

**(15) Batta Memo:**—

- (i) Batta memo for issue of summons to witnesses should not be received unless the necessary batta is also produced at the same time.

- (ii) Batta memos received too late for the issue of processes or received after the dismissal of petitions for default, etc., should be rejected and not kept pending to be utilised for future applications.
  - (iii) There should be separate process memoranda for processes to be executed in each village or pakuthi.
- 428.** When a party is summoned at the instance of the court the party for whose benefit a witness is summoned, should pay the travelling and other expenses and this may be included by the Registrar in the cost of enquiry.
- 429.** For regulating the expenses payable to witnesses and process servers, the scales prescribed in the Civil Procedure Code may be followed.
- 430. (a)** Where it is not permissible to issue a summons for the personal appearance of an executant or a witness (vide rule 4 of the Order V of the first schedule to the Civil Procedure Code, 1903), a commission shall be issued for his examination under the Provisions of Order XXVI of the first schedule to the Civil Procedure Code.
- (b)** When a commission is so issued, the procedure prescribed by rule 54(1) of the Registration Rules shall be followed. The commissioner shall in enforcing the attendance of the person concerned, follow the same procedure as in the case of a document presented, to him for registration.
- (c)** When the commission is for the examination of an executant and the executant appears in response to the process issued by the commissioner, the endorsement prescribed in rule 54(11) to (iv) of the Registration Rules shall be followed; the words 'A.B., son of C.D., having appeared before me in my office' being substituted for the words 'having attended at the residence of A.B., son of C.D.', etc. in the endorsement prescribed in rule 54(11) of the Registration Rules.
- (d)** If the executant appears after the limit of time prescribed by section 34 of the Indian Registration Act a statement of the reasons for the delay shall be recorded from him by the Commissioner and transmitted to the officer, issuing the commission along with the other papers. The fine for the delay, if paid, shall be remitted by the commissioner, into the local treasury, the fact of payment of fine and the amount paid being intimated to the officer issuing the commission.
- (e)** In cases in which the executant does not appear before the commissioner, within the maximum period prescribed by the Indian Registration Act, or in which the commissioner is satisfied before the expiry of that period that the executant is wilfully keeping out of the way, the commissioner shall record a statement of the evidence to that effect and transmit the statement with the connected papers and the documents to the officer who issued the commission.
- The Commissioner shall not make any endorsement on the document in such cases.
- (f)** If on application, the executant is examined at his private residence under section 38 of the Indian Registration Act by the commissioner, the attendance fee levied for the purpose shall be credited in the accounts of the officer, who collects the fee and intimation sent to the other officer. Travelling allowance if any collected shall be forwarded to the officer who is entitled to claim it.

**(g)** Any deposition which a commissioner may consider necessary to record, shall be taken on loose sheets which shall be forwarded in original to the officer who issued the commission. No copy of the deposition shall be retained by the commissioner. The officer issuing the commission shall, on receipt of the original depositions, keep such of them as relate to appeal cases, original enquiries, and will cases with records of such cases and shall file the depositions relating to ordinary documents in the file of powers-of-attorney after copying them in the deposition-book of the office.

**431. (a)** Process fee should be collected only in the shape of court-fee stamps, and not in cash. But batta and travelling allowance shall be collected in cash only.

**(b)** Peons of the Department should be deputed for serving processes within 8 Kilometres. They are not entitled for any honorarium or remuneration in this behalf as it is part of their official duty.

**(c)** Process to be served beyond a distance of 8 kilometres should be done through registered post (acknowledgement due).

## CHAPTER XIX

### Minute Book

432. The Minute book referred to in rule 41 of the Registration Rules shall be maintained in form No.4.
433. (a) In this book shall be entered a brief record of each days' proceedings in respect of every document on which a presentation endorsement has been made and which is neither admitted to registration nor refused registration on the day of presentation, such as a document presented for registration and returned for correction under rules 31 of the Registration Rules, a document put aside pending appearance of parties or witnesses or a document pending reference to the Registrar. Proceedings in respect of a will or authority to adopt presented under section 41(2) of the Indian Registration Act or of a document presented for registration after the death of the executant or the executant of which dies before admitting execution, shall be excluded, the numbers assigned to them being included in the minute book on the date of presentation to be closed by a remark— See case No ..... for a specimen entry vide Appendix VIII.
- (b) The record shall also include reference to the following:—
- (1) *Matters to be included:*— Documents which ought to be presented for registration in different office but which have been accepted for registration by oversight and have been returned for presentation in the proper office, after the presentation endorsement has been made.
  - (2) Documents presented by a party not entitled to present the same and returned, after the presentation endorsement has been made, for presentation by the proper person.
  - (3) Documents accepted for registration but returned unregistered at the request of the party presenting them.
434. (a) The entries relating to a document shall be made by the Registering Officer who deals with the document to which the entry relates and shall be initialled and dated by him.
- (b) In a Registrar's Office two minute books shall be maintained one for the proceedings of the Registrar and the other for those of the Joint Sub Registrar or Joint Sub Registrars.
- (c) In a Sub Registry Office where there is a Joint Sub Registrar the proceedings of both the Sub Registrars shall be recorded in the same book.
- (d) The serial number as signed to the minute entries shall commence and terminate with the calendar year, a fresh series being commenced at the beginning of each year.
- NOTE:**— Registering Officer may grant copies of the notes of statements recorded in the minute book to parties to the proceedings in which such statements were made and to parties claiming title through them as persons interested in affirming



or denying the truth of such statements, but except to persons so interested, he is not bound to give such copies.

- 435. *Register of documents pending transcription:***— A register as directed in rule 41(2) of the Registration Rules in Form No.5 shall be maintained in each Sub Registry Office. In it details in respect of documents admitted to registration but pending transcription shall be recorded. Each entry (date-war) so made shall be initialled by the Sub Registrar.

## CHAPTER XX

**Refusal to Register****436. General:—**

(a) Registration cannot be refused merely on account of the objection of a person who is not a party to the document that his interests will thereby be affected prejudicially. A party who objects to registration on that ground should be informed in writing that he should seek redress in a Court of Law.

(b) Under Rule 38(iii) of the registration Rules a document refused registration after recording admission, when represented for registration under the orders of an appellate authority, shall be registered without recording a subsequent admission of the same party.

**437.** When an executing party is too ill to know what he is about registration shall not be refused, but shall be suspended until he recovers. If the executant dies, the document shall be dealt with after examining the representative. If however, the maximum time prescribed by law expires before the recovery of the executant, registration may be refused.

**438. Wilful non-appearance of parties, is tantamount to denial of execution:—**

(a) Where an executant of a document does not appear to admit execution notwithstanding issue of process against him, the Registering Officer shall decide for himself whether registration should be refused on the ground of wilful non-appearance which tantamounts to denial of execution [Rule 191(xi) of the Registration Rules] and in coming to a decision on this point, he may admit the testimony of the claimant or of his representative or agent that the executant is wilfully keeping out of the way.

(b) If the Registering Officer is satisfied that the executant of a document is wilfully keeping out of the way in spite of personal service of summons on him, his failure to appear should be treated as tantamount to denial of execution and the registration of the document should be refused immediately. [Rule 191(xi) of the Registration Rules].

(c) When a question of the age of a minor who is party to a document, is to be decided by a Registering Officer, evidence from independent witnesses and records such as admission register in schools, baptismal and birth certificates, shall be accepted as sufficient proof. No Registering Officer shall, of his own accord, subject a minor for medical examination, a certificate of which is only one of the evidences of age. When refusal is made through reason of minority, the approximate age of the minor, as judged by the Registering Officer, shall also be entered in the reason for refusal.

(d) The capacity of a party (self or for minor) regarding whom a refusal is made, shall be clearly indicated in the reasons for refusal.

**439. (a)** A document is a nullity where the executant of it signed only on the first page but did not sign on the other pages. Having discovered that it was not in accordance with the terms previously agreed upon.

(b) If a document purported to transfer, immovable property is presented for registration, It should contain a full description of the property sufficient to identify it. If a description of the property as such is not furnished in the document (section 21 of the Registration Act) the document should be refused registration.

440. Sub Registrars of all amalgamated offices have been authorised by Government Notification in G.O.Ms.No.999/Revenue dated 29<sup>th</sup> October 1962 to conduct proceedings qua Registrar with reference to the proviso to section 34(3) of the Registration Act in respect of documents presented to such Sub Registrars for registration. Accordingly, no appeal to the Registrar shall lie on refusal orders made by such Sub Registrars except in the case of wills prescribed under section 41(2) of the Registration Act. [Error:- Read 'G.O.Ms.No.999' and 'section 34(3)' above, as 'G.O.Ms.No.909' and 'section 35(3)' respectively]

441. *Refusal order passed by the Registrar and the Sub Registrar of the amalgamated office in the same register book:*— Sub-section (4) to section 51 of the Registration Act clearly lays down that only one set of register books shall be maintained in Sub Registry Offices amalgamated with Registrar's Offices. Accordingly, refusal orders by Registrars and Joint Sub Registrars, shall be entered in the same register book (Book II) of the office giving serial numbers in the serial order of refusals. Orders of refusal shall be entered at headquarters although enquiries may be conducted and cases heard in camp by Registrars.

**NOTE:**— As section 51(4) of the Registration Act refers only to register books, there is no objection in maintaining separate thumb impression register and receipt books in the supervising and registering section of the amalgamated office. In the Thumb Impression Register maintained in the supervising section, impressions in regard to all cases except those relating to documents registered under section 30(1) of the Indian Registration Act shall be taken. The same principle will apply to receipt book entries also.

442. In the case of an office which has been amalgamated a Sub Registrar other than the senior Sub Registrar shall not pass an order of refusal on any ground whatsoever, when the execution of a document is denied (section 74) or when the executant appears to be a minor, an idiot or a lunatic [section 35(3)], he shall not record any statement or take any further action in respect of the document, but shall transmit the document to the senior Sub Registrar who shall make the prescribed enquiries under sections 34 and 14 of the Registration Act.

443. *Refusal order shall be in the language of the document or a translation presented:*—

(a) The order of refusal to register recorded in Book II shall be in the language of the document or translation presented therewith. But refusal orders made by Registrars on appeals or applications shall be in English. All such orders shall, except In the case referred to in order 682 be in the handwriting of the Registering officer and shall, after setting out the facts of the case, state the reason for the refusal fully and clearly. Eg:- The document is refused registration with reference to the provisions of section 20(1) of the Registration Act, seeing that it contains unattested interlineations and blanks.

(b) The orders shall be assigned serial numbers as laid down in section 53 of the Indian Registration Act.

- (c) The number of the document in the pending series should be entered in the form of a heading, above the reasons for refusal thus 'Document No.P.6 of Book .... 1958.'
- (d) The name and addition of every person from whom a deposition has been recorded by a Registering Officer, in reference to a document which is refused registration, whether he be the claimant, executant or other person, shall be entered in column 4 of Book 2.
- (e) When an executant who denies execution is personally known to the Registering Officer, the words, 'personally known to the Registering Officer' shall be added in brackets against his name in column 3.
- (f) In the case of a document refused registration in toto the following particulars shall be noted in column 5.
- (i) The nature and value of the document.
  - (ii) Names of the villages and of the sub district.
  - (iii) A brief reference to the property mentioning whether it consists of land, if so, whether wet, dry or garden, and a house or a house site or one or more of these and the total extent affected.
  - (iv) Name of all the claimants, the writer and the attesting witnesses.
  - (v) Whether the executant is a signatory or a marksman.
- (g) (i) The instructions as regards the initialling by the Registering Officer of pages and the attestation of erasures, interlineations, etc., shall be observed in the case of entries in Book 2 also.
- (ii) The entry in column 5 shall be closed with the initials of the Registering Officer.
- 444.** The number assigned to an order of refusal under Order 443(b) shall be entered on the document above the endorsement of refusal to register prescribed by section 71 of the Registration Act.
- 445. Appeals in Registrar's Office:—**
- (i) In making entries in Book 2, in the case of appeals in Registrar's Office:—
- (a) In the column 'date and hour of presentation' the date and hour of presentation of the document in the Sub Registry Office, shall be entered and not the date and hour of presentation of appeal;
  - (b) Columns 2 to 5 shall be left blank;
  - (c) The number and year of the appeal with the name of the parties shall be entered at the head of the order of refusal in the column 'Reasons for refusal' and the names of the witnesses examined if any, shall be entered below the order of refusal in the same column.
- (ii) A document accepted for registration but returned unregistered at the request of the presentant [Order 106(a)] shall not be entered in Book 2.
- 446.** Intimation in writing of refusal to register a document under section 71 or section 76, or of direction to register a document under section 72 or section 75 of the Registration Act shall be given to the parties concerned as well as to their vakils or

agents or representatives on the very day the order of refusal or the direction to register is passed. When such intimation has to be given by post, it shall be by "Registered Post Acknowledgement due" only.

**447.** Copies of refusal orders shall be granted without delay and with a note showing the time within which an appeal may be lodged and the authority to which the appeal lies.

**448. *Partial registration and refusal:—***

When a document is partially registered and partially refused registration, a reference to the partial registration, shall be entered in Book 2, as a further note, the order of partial refusal as follows:—

"Registered as No ..... of 19..... Book ..... Volume ..... page ..... as regards ....."

**449. *Refusal order to be entered in Book 2 on the date on which the refusal order is passed:—***

**(a)** When the registration of a document is refused (either in toto or in part) an order of refusal shall be recorded by the Registering Officer in Book 2, on the date on which it is so refused and the fact of such refusal shall be endorsed on the document as contemplated under section 71 of the Registration Act.

**(b)** In case the refusal is partial the fact of such refusal shall be recorded, on the document just below the registration certificate as laid down in Rule 193 of the Registration Rules.

**(c) *Mode of endorsing partial refusal on documents registered and transcribed on a date subsequent to the date of refusal:—*** If a document, the registration of which is partially refused is transcribed or registered (partially) on a date subsequent to that of refusal, the fact of such partial refusal need be recorded on the document (below the registration certificate), only on the date on which the certificate of registration is added even though the fact of refusal was duly entered in Book 2 on a prior date. The date on which the endorsement regarding refusal actually made on the document need alone be indicated, below the said endorsement of refusal. Appropriate entries shall be duly entered in the minute book also. soon after the refusal order is passed and recorded in the register of refusal (Book 2).

**450. (a)** Reasons for refusal entered in Book 2, shall invariably contain all the steps taken in respect of the document, culminating in the refusal, below which shall be recorded a specific order to the effect that the document is refused registration, quoting the section of the Act and the Rules under which the registration is refused. This entry shall be closed with the Sub Registrar's signature and date.

**(b)** When a document refused registration is ordered to be registered either by a Registrar or by a court, a note to the following effect shall be entered in Book 2 under the order originally passed by the Sub Registrar refusing registration and at foot of the copy of the Registrar's order or the order or decree of the Court filed under order.

'Registered under the orders of the Registrar/Court as No ..... of 19.....  
Book ..... Volume ..... page ....."

**(c)** The notes prescribed in clauses (a) and (b) shall be attested by the Sub Registrar's initials with date.

451. The endorsement of refusal on the document shall be in the language in which the document is written or a translation thereof, is presented. No seal shall be affixed to refusal endorsements.
452. A document executed by different parties on different dates shall be refused registration in respect of any of the executants who either deny execution or fail to appear within the prescribed time, only after all the other executants have either admitted or denied execution or the time limit of four months from the latest date of execution has expired, provided the presentant has not taken any action under section 36 of the Registration Act.

## CHAPTER XXI

### Wills and Authorities to Adopt

**453. General:—**

(a) A will is a testamentary disposition of property. A document containing an authority to adopt is accordingly not a will even if it contains a direction that the adopted son shall be put in possession of the property since this direction does not constitute the instrument a demise of property.

(b) A document which is otherwise a will is only a will, even if it contains an authority to adopt.

**454. (a)** An instrument whereby a wife is authorised by her husband to adopt a son for him after his death is an authority to adopt registrable in Book 3.

(b) A document which merely declares the fact of the adoption of a son or the giving of a son in adoption is not an authority to adopt but a deed of adoption registrable in Book 4 or if a right in immovable property is also created thereby in Book 1.

(c) Wills jointly executed by two testators with specified distinct interests shall be treated as two wills for purposes of registration fee.

**455.** There is no provision in the Indian Registration Act for the registration of a copy of a will.

**456.** By whom wills and authorities to adopt are to be presented for registration:- A will should be presented for registration by the testator himself when he is alive. If there are more than one testator in a will, it may be presented by any one of them. Section 40 of the Indian Registration Act precludes the presentation of will for registration, by agents. After the death of the testator, any person claiming as executor or otherwise under the will may present it for registration. Similarly an authority to adopt has to be presented by the donor when alive, and after his death, it may be presented either by the donee or adopted son. If the donor or adopted son is a minor, presentation may be made by the guardian.

**457. Enquiry:—** A Registering Officer conducting an enquiry under section 41(2) of the Indian Registration act must confine to the scope and extent of his proceedings to the investigation of the following three points only:

(i) Whether the will or (authority to adopt) was executed by the testator or donor;

(ii) Whether the testator or donor is dead; and

(iii) Whether the person presenting the will (or authority to adopt) is entitled to present the same.

**458.** Enquiries under section 41 of the Indian Registration Act:- The date for an enquiry under section 41(2) of the Indian Registration Act shall be fixed with due regard to the date of publication in the Gazette and the probable time it will take to reach the general public. Notifications to be published in the Gazette shall be submitted in duplicate through the Registrar for action accompanied by a chalan receipt in

support of remittance of publication charges. The chalan for publication charges shall be verified and countersigned by the Registering Officer before remittance. "The parties shall, directly remit the required sums at the treasury to the credit of the Government Press under the appropriate Head of Account".

- 459.** In an enquiry under section 41(2) of the Indian Registration Act adjournments shall be restricted so that parties may not be put to unnecessary expense or trouble. Registration shall be refused if it is found that the presentant has not within a reasonable time taken steps to prove the execution of the will.
- 460.** A Sub Registrar whose office has been amalgamated with that of a Registrar under section 7(2) of the Indian Registration Act does not lose his identity as a Sub Registrar in any acts connected with original registration. Accordingly, a Sub Registrar in a Registrar's Office can conduct enquiries under section 41(2) of the Indian Registration act and in the event of the Sub Registrar's refusal to register, an appeal lies to the Registrar.

The refusal order by the Sub Registrar and in the event of its conformation by the Registrar, the refusal order by the latter shall both be entered in Book 2 of the amalgamated office.

- 461.** Although admission or denial of execution by the representative or assign of a deceased testator or donor, is not a point at issue in an enquiry under section 41(2) of the Indian Registration Act, the Registering Officer may, if a representative or an assign denies the execution and he himself is not otherwise satisfied as to the execution of the deed, refuse registration on the ground of the denial of execution.
- 462.** A power of attorney executed by the presentant of a will authorising the agent to appear and act in the former's behalf in an enquiry under section 41(2) of the Indian Registration Act, falls under Article 48(a) of Schedule I to the Kerala Stamp Act, as it is granted for the purpose of procuring the registration of a document.
- 463.** When a witness is examined under a commission, the endorsement prescribed by Rule 86(1) of the Registration Rules, shall mutatis mutandis be adopted.
- 464.** A Registering Officer is not permitted by the Indian Registration Act to refuse registration of a will when presented by any person other than the testator on the ground of the minority of the testator when he executed the will. The procedure prescribed by section 35 of the Indian Registration Act is not applicable to the registration of wills which under section 40 of the Act are presented for registration after the death of the testator by persons claiming under them. A clear distinction is made in section 41 of the Act between the case of a will presented by the testator himself and that of a will presented by any other person entitled to do so. In the former case, the rules laid down in section 35 of the Indian Registration Act are made applicable, but in the latter case special rules are given. In these special rules, no provision is made for an enquiry as to the testator's minority or sanity, for which enquiry provision is made in the Rules in section 35 of the Indian Registration Act. It would not be reasonable to hold that the Rules (a), (b) and (c) of section 41(2) of the Indian Registration Act are merely supplemental to the Rules in section 35 because at least in one instance the same rule in substance appears in both sections.



**NOTE:**— This ruling does not apply to a case in which a will is alleged to have been executed by a testator, when he was in an “unconscious” state. Under clause (2) of section 41 of the Indian Registration Act, a registering Officer should satisfy himself that the will was executed by the testator. Execution or affixing one’s signature pre-supposes that the act was consciously performed. Consequently, where it is alleged that a person had not this consciousness, a Registering Officer can and must take evidence on the point and an enquiry as to the fact whether the signature was affixed to the will by the testator when he was conscious and whether the execution was actually witnessed by the witnesses is within the province of the Registering Officer. But any enquiry beyond this, such as taking evidence on the question whether the testator had a competent understanding as to the state of the family and the claims of the several members is outside the province of the Registering Officer.

465. The provision in section 40 of the Indian Registration Act that an authority to adopt may be presented for registration after the donor’s death by the donee or the adoptive son does not exclude the authority under section 32 of the representative of the adoptive son to present the document.
466. Where a discrepancy is noticed between the English and Indian dates inserted in a will presented for registration after the death of the testator, the will shall be registered, as it is, on proof of its execution by the testator, since it is impossible to reconcile the discrepancy.
467. *Depositions taken in the course of enquiries:—*
- (a) All depositions in connection with enquiries into will cases under section 41(2) of the Indian Registration Act, whether taken in the office or at a private residence, shall be on loose sheets and preserved with the other records of the enquiry. These depositions need not be copied into the deposition book.
- (b) The record of each day’s proceedings in respect of every such enquiry shall be noted in a case diary maintained in Form No.14 separately for each case.
- (c) A copy of the case diary shall at the conclusion of the enquiry be submitted to the Registrar along with the memorandum of reasons prescribed by Rule 87(1) of the Registration Rules. When a will is returned unregistered at the request of the presentant at any stage of the proceedings the fact of such return shall be entered in the case diary.
- (d) The provision to draw up memorandum in Malayalam referred to in Rule 87(1) of the Registration Rules is applicable only to those cases where the document is drawn up in Malayalam. Where, however, a document is written in any of the other languages referred to in Rule 21 of the Registration Rules, the memorandum may be drawn up in the language of the document or translation presented therewith.
- (e) All the records connected with a will enquiry viz., (1) the case diary, (2) the depositions, (3) notices, vakkalaths, summons served etc., and (4) the memorandum containing the summary of the evidence, shall be stitched together chronologically with a facing sheet indicating the document to which the enquiry appertains and the number and year of the enquiry followed by a table of contents giving the date and a brief abstract of each document in the file.

(f) These records shall be preserved in the order of the dates of the memoranda for thirty years and be then destroyed.

(g) According to Rule 9 of Order XIII of the first schedule to the Code of Civil Procedure, any person whether a party to a suit or not, desirous of receiving back any document produced by him in the suit and placed on record shall unless the document is impounded, be entitled to receive back the same:

(i) Where the suit is one in which an appeal is not allowed, when the suit has been disposed of and

(ii) Where the suit is one in which an appeal is allowed, when the court is satisfied that the time for preferring an appeal has elapsed and that no appeal has been preferred or, if an appeal has been preferred, when the appeal has been disposed of:

Provided that a document may be returned at any time earlier than that prescribed by this Rule, if the person applying therefore delivers to the proper officer, a certified copy to be substituted for the original, and undertakes to produce the original if required to do so.

**468.** Intimation in writing of refusal to register a will in an enquiry under section 41(2) of the Indian Registration Act, shall be given to the parties concerned as well as to their vakils, agent or representatives on the day on which the refusal order is passed.

**469. *Marking of Exhibits:—***

(a) Rule 79 of the Civil Rules of Practice and Circular Orders, Volume I, dealing with the marking of exhibits in suits, is extracted below:

#### **“Exhibits”**

1. 54 Exhibits admitted in evidence shall be marked as follows:

(i) If filed by the plaintiff or one of several plaintiffs, with the capital letter A followed by a numeral A1, A2, A3, etc.

(ii) If filed by the defendant or one of several defendants, with the capital letter B followed by a numeral B1, B2, B3, etc.

(iii) If court exhibits, with the capital letter C followed by a numeral C1, C2, C3, etc.

(iv) If third party exhibits with the capital letter X followed by a numeral X1, X2, X3, etc.

2. The exhibits filed by the several plaintiffs or defendants shall be marked consecutively.

3. If, in a proceeding subsequent to the trial of a suit or matter, further exhibits are admitted in evidence, they shall be marked in accordance with the above scheme with numbers consecutive to the number on the last exhibit previously filed.

(b) The instructions in Order 699 regarding conduct of enquiries by a clerk placed in charge of a sub-office in short vacancies apply mutatis mutandis to enquiries contemplated by section 41(2) of the Indian Registration Act.

### Deposit and withdrawal of sealed covers

**470. *Book V and Alphabetical Index:—***

(a) Entries in Book 5 shall be made and the alphabetical index prescribed by Rule 153 of the Registration Rules, shall be prepared by the officer himself who receives for deposit or delivers or opens a sealed cover under sections 43 to 46 of the Indian Registration Act. Whenever a sealed cover is opened after the death of a testator under section 45 of the Registration Act or removed to court on requisition therefrom under section 46 of the Act, the entry in column 13 of Book 5 Register of deposits of wills shall be attested by the Registrar with date. When intimation is received from a court that a will forwarded to it, has been permanently retained there, the fact shall be noted in column 13(b) of Book 5. These duties shall not be delegated to a clerk.

(b) *Wills forwarded to courts:—* When a will forwarded to a court under Rule 96 of the Registration Rules by registered post, the cover containing the will shall be entrusted to a responsible clerk for its being registered at the Post Office.

**471.** Registrars shall obtain from the Controller of Stationery and maintain a sufficient stock of specially made envelopes and superior sealing wax for supply to intending depositors of will free of charge and the advantages afforded by the use of such covers and wax in the preservation of wills, shall be explained to the depositors.

**472.** Every Registrar when accepting a sealed cover for deposit under section 42 of the Indian Registration Act, shall intimate to the depositor, that no steps will be taken by Government to ascertain and intimate the beneficiary as regards the death of the testator. He may further be informed that the sealed cover will be opened and its contents copied in Book 3, and re-deposited under the provisions of section 46(2) and 45(2) of the Indian Registration Act, soon after the death of the testator.

**473. *Wills may be deposited or withdrawn either by the testator or his duly constituted Agent:—*** A legal practitioner shall not be permitted to deposit or to withdraw a sealed cover on behalf of the testator, on the strength of a vakkalathunama stamped under the Court Fee Act, but they may be asked to produce a power of attorney for the above purpose stamped under the Indian Stamp Act.

**474.** Power of attorney granted for purposes of depositing or withdrawing sealed covers containing will need not necessarily be attested as laid down under section 33 of the Indian Registration Act, there is no objection to accept the powers of attorney so attested. In case of not so attested those of the following descriptions may alone be recognised (1) Powers of attorney duly registered under the Indian Registration Act, (2) Powers of attorney executed before the authenticated by any of the functionaries or court mentioned in section 85 of the Indian Evidence Act.

The above powers of attorney shall be accepted and acted upon only if it contains a specific authorisation by the principal as regards deposit or the withdrawal of his will.

**475.** When a sealed cover is deposited or withdrawn by an Agent under a power-of-attorney, an endorsement shall be made on the power in the form prescribed by Rule 58 of the Registration Rules with suitable alterations. The power shall be retained or returned according as it is a special or a general power and in the former case, it shall be kept with the sealed cover itself.

476. When a cover has been accepted for deposit and action taken with reference to section 43(1) of the Indian Registration Act and Rule 93(v) of the Registration Rules, the cover shall, before it is deposited in the safe [section 43(2)], be placed in an outer transparent cover with eyeletted flaps and a string shall be passed through the eyelets and tied and sealed with the Registrar's private seal. The outer cover shall not be opened unless there is a permanent change in the personnel of the Registrars or unless an occasion arises for the opening of the inner cover or its removal to court.
477. The sealed covers shall be preserved in the fire-proof box in Registrar's Offices.
478. In respect of a will sent to court but not received back within six months from the date on which it was sent, the Registrar shall remind the court for its return and continue reminding till it is got back or information is received that it is permanently retained by the court.
479. All the records connected with the sealed cover shall be stitched together chronologically with a facing sheet indicating the number in Book 5 and the year to which the file relates, followed by a table of contents giving the date and a brief abstract of each document in the file. The file will include- (i) a power of attorney on the authority of which the cover is deposited or withdrawn; (ii) an application for the opening of the cover; (iii) an application for its withdrawal and (iv) summons received from the court for its production and acknowledgement of receipt by the court (Rule 95). These records shall be preserved with the cover, or the will which shall not be stitched but kept loose.
480. *Register of sealed covers:—*
- (a) The Register prescribed in Rule 93(v) of the Registration Rules designated the "Register of sealed covers" shall be maintained in Form No.16 and three lines shall be left blank between two entries.
- (b) When any defect in the seals of a cover or in the cover itself is discovered, a note of such defect shall be made in the register and in the report forwarded under Rule 93 (vi) of the Registration Rules.
- (c) The results of the checking of the sealed covers and wills with the entries in this Register under Rule 93 (vi) of the Registration Rules shall be recorded in a certificate at the end of the Register.
- (d) The undermentioned instructions shall be observed in making entries in the register:-
- (i) Column 1:— Whenever a cover is opened on the application of a party under section 45 or for production before a Court under section 46, the date of opening shall be entered with the serial number and year in Book 5 noted within brackets eg:- 20-9-1927/(1-1924), 27-9-1927/ (5/1922).
- (ii) Columns 2,3,4(a) and 4(b):— The serial number and year of the cover as given in Book 5 shall be noted within brackets eg:- (7/ 1920), (3/1925).
- (vi) Columns 6 and 1:— The total number of covers sent to court and not received back shall be shown by a plus entry. Thus, if out of 89 sealed covers, 8 are still in court, the figures in column 7 will be 81 plus 8.

- (e) A register of wills covers held in deposit in the alphabetical order of the names of testators shall be maintained in each District Office in Form No.17. One page each shall be allotted to each letter and each page shall contain information regarding the name of the testator, the number and year of the will cover, date of deposit, date of withdrawal, date of opening and registration and removal if any. The register shall be preserved as a permanent record.
- (f) Wills transmitted under Rules 90 and 93(iv) of the Registration Rules shall, when forwarded by post, be sent registered.
481. ***Wills received by Post:***— When a cover, which does not on the face of it purport to contain a will, is on opening, found to contain a will, information shall be given to the testator or the sender that the will cannot be registered or secured under the Indian Registration Act, since it has been received by post and cannot, therefore be considered to have been presented for registration or deposited within the meaning of the Act and he shall be requested to take delivery of the same in person or by a duly authorised agent.
482. Such wills as also those retained under Rule 93(ii) of the Registration Rules shall, immediately on receipt by post, be brought to account in the register of sealed covers referred to in Rule 93(v) of the Registration Rules.
483. If, in the case referred to in Order 478, the party does not appear within a fortnight, the will with its cover shall, in a Registrar's Office, be kept with the covers referred to in Registration Rule 93, the particulars mentioned in the last part of clause (ii) of that rule being entered on the cover. In a Sub Registrars Office, the will cannot be retained and the Sub Registrar shall forward the will with its cover to the Registrar with full particulars.

## CHAPTER XXII

**Powers of Attorney**

484. A Registrar may attest a power of attorney executed by a person residing in any part of his district.

485. The word 'resides' which occurs in sub-clause (a) of clause (1) of section 33 of the Indian Registration Act is nowhere defined in the Act itself but may fairly be interpreted by explanation I to section 20 of the Code of Civil Procedure, which is as under:—

**Explanation:—** Where a person has a permanent dwelling at one place and also temporary residence at another place, he shall be deemed to reside at both places in respect of any clause of action arising at the place where he has such temporary residence.

486. Registering Officers should not attest powers of attorney the wording in which will lead to the inference that the principal is resident beyond the limits of their jurisdiction at the time of attestation.

487. (a) Every power to be attested must under section 33(1)(a) of the Indian Registration Act, be executed before the Registering Officer. The only exception to this rule is when a power of attorney is executed by a person exempted under the proviso to that section from attendance at a registration office for execution of the power. [Rule 57(ii) of the Registration Rules].

(a) If by mistake, a principal has already signed a power his signature shall be obtained in the presence of the Registering Officer below the first signature and he shall be required to enter below the latter signature the date of the same.

(b) The date inserted in a power of attorney shall correspond with the date of its attestation when it is executed before a Registering Officer.

488. (a) When a power of attorney which has not been executed before a Registering Officer, is presented for authentication, the finger impression of the executant shall when necessary [Rule 73(1) of the Registration Rules], be taken against the executant's signature in the endorsement of authentication. Such thumb impressions need not be initialled and dated by the Registering Officer.

(b) When a finger impression is taken against the signature of an executant of a power of attorney under Rule 57(1) of the Registration Rules or under clause (a) of this Order, the impression shall also be taken in the Thumb Impression register.

**NOTE:—** Execution by a gosha lady of a power of attorney behind a purdah and out of the sight of the Registering Officer is not execution in the presence of the Registering Officer. In such cases, the form of attestation endorsement shall be that prescribed by Rule 57(2) of the Registration Rules.

489. (a) Whenever a power of attorney is executed by a person in more than one capacity as in the case of a person executing it for himself and as guardian of his minor son, a second signature shall be obtained from the executant indicating his execution in his representative capacity, e.g., as guardian of the minor.

- (b) In such cases, it is not necessary to bring out the dual capacity of the executant in the endorsement of attestation made by Registering Officers under Rule 57(1) of the Registration Rules.
490. (a) Every powers of attorney attested or filed under Rule 58 of the Registration Rules, whether general or special, shall be assigned a serial number in continuous series terminable with each calendar year, which shall be noted above the endorsement of attestation or on the back of the power filed, as the case may be. The number assigned to the power as above, will be the number to be entered against column I of the abstract prescribed in Rule 63 of the Registration Rules and the consecutive number of such abstracts prepare, shall be entered in the heading against “consecutive number”. In the case of powers of attorney presented with duplicates, only one number should be assigned, the number of duplicates, being noted under the number entered against column I of the abstract. The filing shall be done serially.
- (b) When a power of attorney is attested at different times, a fresh abstract should be prepared and a fresh serial number entered in the endorsement for every separate attestation.
491. *Powers of attorney presented for attestation and registration: Noting of time and fee in the endorsements:*— Rule 60 of the Registration Rules specifically lays down that whenever a power of attorney is presented for attestation and registration, Registering Officers shall first authenticate and then admit it to registration in the usual manner. Since it is evident that an unsigned instrument cannot be formally presented for registration, such powers have to be attested first, and then only presented and admitted to registration. The procedure to be followed in such cases, is to complete the steps in regard to attestation first, return it for formal presentation and thereafter, follow the procedure for registration of documents. As one procedure precedes the other it will not be correct to enter the same time hours and minutes, in both the endorsements. The time denoted in the presentation endorsement must necessarily be later than that given in the attestation endorsement. Again as regards the noting of fees, each item of fee should be denoted in each of the endorsements separately. Attestation fee shall be denoted after the serial number thus:- “Number of 19 fee Rupees Executed in my presence, etc.”. Fees realised for purposes of registration as distinguished from attestation, need alone be entered in the endorsements of presentation. Separate receipts should also be issued for the attestation fee and registration fee realised.
492. For the purpose of Rule 58(i) of the Registration Rules a special power is one by which the agent is authorised to act in a single office. Accordingly, a power by which the agent is authorised to appear in more than one office should for the purpose of Rule 58(ii) of the Registration Rules be deemed to be a general power.
493. When a power has been attested by an officer and there is nothing on the face of it to show that it has not been properly attested, it shall be accepted and acted upon by the receiving officer. Any defect in the procedure of the attesting officer, e.g., omission to affix the seal or the date, is not a valid ground for refusing to accept the power.
494. An endorsement by a Registering Officer on a power of attorney shall be so made, as to leave a margin on the left hand side in the front and on the right-hand side at

the back of the paper, so as to avoid the entries being hidden by the butts of the file-book when the powers are pasted in the latter.

495. Vakalathu attested by a Registering Officer under the Civil Procedure Code, shall find no place in the office records. They require no fee; nor shall the seal be applied to the attestation.
496. A document executed by an agent on behalf of a principal including in that category, documents which purport to be executed by principals and are signed by the agents on behalf of such principals as well as those which purport to be executed by agents, as such on behalf of principals and are signed by the agents may be accepted for registration without requiring the production by the agent, of a power of attorney attested as prescribed by section 33 of the Indian Registration Act.
497. *Power of attorney executed out of India:*— A power of attorney executed out of India shall not be recognised unless it has been authenticated by one of the officers mentioned in sub-clause (c) of section 33(1) of the Indian Registration Act. A power attested by a Registering Officer in Jammu and Kashmir cannot, therefore be accepted and acted upon for registration purposes in the Kerala State.
498. When an agent appears to admit execution of a document, the Registering Officer shall satisfy himself, by inquiry of the agent that the executant is alive. (No deposition need ordinarily be recorded in such a case). A declaration in Form No.10 may, if deemed necessary, be recorded from the agent to the effect that the principal is still alive and that the power of attorney is still in force. Each such power shall have a separate declaration and each declaration shall be headed by the year and number of the documents.
499. When a person holds a power of attorney executed by more than one person for registering documents executed by the principals, collectively or individually, there is no objection in recording admission from the same power holder for the documents executed by any set of persons included in those who executed the power of attorney.
500. If a new Sub Registry Office is opened within the jurisdiction of a Sub Registry Office at which the holder of a power of attorney has been authorised to present documents, the same power of attorney should be recognised by the new office also.
501. Even though a principal, has already executed a power of attorney in favour of an agent for presentation, etc. of documents for registration, he is at liberty to present and admit execution of documents by himself if he so chooses.
502. *Revocation:*—
- (a) (i) A power of attorney may be revoked by the principal as laid down in Indian Registration Rule 64;
- (ii) The ordinary rule of law is that when one of the joint executants of a power of attorney dies, the power is determined in toto. An agent authorised by a power of attorney, has no authority to present a document for registration after the death of the principal.



- (iii) But in cases, where a power jointly executed by one or more persons contain an express provision that the power is not intended to be determined by the death of one or more of the executants, the power will hold good even after the death of one of the executants.
- (iv) A power of attorney executed by two or more persons in favour of an agent to act on their behalf, jointly and severally, can be revoked by anyone of them in the manner prescribed in Rule 64 of the Registration Rules. The effect will be that it is determined by such revocation and no Registering Officer can take any action on such cancelled power of attorney. After such revocation the agent cannot be regarded as a person duly authorised by a power of attorney to present a document for registration. The Registering Officer is under no legal duty or obligation to ascertain from the other executants whether they are agreeable to the application for revocation being acted upon.
- (v) It is open to a number of persons to join together and execute a power of attorney authorising a person to act for them all jointly or severally. In the case of such a power of attorney the death of one or more of the executants would put an end to the power of conferred on the attorney to act as the representative of the surviving executants in any of their joint transaction. But the power of attorney to act as the representative of the surviving executant in respect of their several transactions will not be affected if there is an express provision in the power to that effect as detailed in Order 502(a)(iii) supra.

**(b)** When there is a change in the personnel of the trustees of a church, documents executed by the new trustees cannot be registered on the strength of a general power of attorney executed by the old trustees as in the case of firms and joint stock companies. In the case of joint stock companies, the body acting is a continuing one having succession and common seal. A trustee, on the other hand person on whom confidence is reposed and it is the personal equation that is foremost and prominent.

**(c)** When a power of attorney contains no authorisation to make a declaration with regard to a transfer of registry, the fact that no such declaration is recorded due to want of such an authorisation, shall be recorded on the declaration portion of the pokkuvaravu and dated and signed by the Registering Officer.

**(d)** A power of attorney legally attested or registered before the date of enforcement of the Indian Registration Act in the erstwhile Travancore-Cochin (1<sup>st</sup> day of April 1951) is not invalidated through such enforcement.

**503. Register of powers of attorney:**— A register of powers of attorney shall be maintained in all Registration Offices in form shown below in which particulars of the powers of attorney presented in connection with the registration of documents and returned, shall, be entered, acknowledgements of the agents being obtained in the appropriate column of the register, in token of such return.

Form of register of powers of attorney presented and returned

<i>Date of presentation</i>	<i>Power No., year and name of office</i>	<i>Registration No. of Document with which presented</i>	<i>Date of return of power</i>	<i>Signature of Presentant in token of receipt back the power</i>
(1)	(2)	(3)	(4)	(5)

**504. File of powers of attorney:—**

(a) In each Registration Office, a file shall be maintained in which shall be filed in the chronological order in which each paper is received or prepared:—

- (1) Powers of attorney presented under Rule 58(1) of the Registration Rules.
- (2) Abstracts of powers of attorney prepared under Rule 63 of the Registration Rules.
- (3) Translations filed under Rule 22(ii) of the Registration Rules.
- (4) Commission orders and the accompanying sets of interrogatories and replies referred to in Order No.296(a).
- (5) Covering letters received from officers of functionaries mentioned in Section 88 of the Indian Act, 1908, and similar letters received persons exempted from personal appearance under other enactments, and
- (6) Depositions forwarded by commissioners,

**505. (a)** These papers shall be assigned serial numbers in the order in which they are filed, the serial numbers running by calendar years,

(b) The papers filed in butt-file shall be assigned page numbers also, the serial numbers running separately for each file,

**506.** “Officers who prepare and examine the abstract of powers of attorney as stipulated in Rule 63 of the Registration Rules, shall sign the abstract after writing their name, and designation as follows:—

Prepared by: Name/Designation

Examined by: Name/Designation

**507. (a)** A certified copy of a special power of attorney filed under Rule 58(1) of the Registration Rules or of an abstract of a power of attorney maintained under Rule 63, shall not be granted to a person other than the principal or the agent concerned or their representatives.

(b) Copies of extracts of special powers shall be granted only on the requisite non-judicial stamp papers based on the stamp duty chargeable on the original power of attorney.

**508. Register of revocation of powers of attorney:—** The register of revocation of powers of attorney referred to in Rule 64(xi) of the Registration Rules shall be maintained in every office, in Form No.12. The entries in this register shall be attested with date by the Registering Officer.

**509. (a)** Revocation of powers of attorney notified in the Gazette or intimated by Registering Officers shall also be entered in the above register by such officers, within whose jurisdiction the power was in force. In such cases, column 14 of the register shall also show the name of the office effecting a cancellation and the date of receipt of the information shall be shown in the remarks column. The intimations of revocation received shall be filed in a separate file after endorsing the word “filed” by the Registering Officer under his full signature, designation and date”.

**(b)** The parties shall ascertain from the Registering Officer the Gazette notification charge for cancelling a power of attorney and shall themselves, remit the amount directly into the treasury to the credit of the Government Press under the appropriate head of account. To ensure the correctness of the head of account such chalans are to be countersigned by the Registering Officers. The chalan together with the petition for cancellation of the power shall then be presented to the Registering Officer.

The notification shall be forwarded to the Inspector General of Registration through the registrars in duplicate. The certificates of identification referred to in Rule 64(vii) of the Registration Rules shall be in a separate paper and not endorsed on the notification. In identifying the applicants, the same procedure laid down for identification of parties to document shall be followed and shall be recorded at the foot or on the reverse of the application.

**510. Powers of attorney not duly stamped are inadmissible in evidence:**— A power of attorney that is not duly stamped, is not admissible in evidence as per section 34 of Kerala Stamp Act and hence shall not be accepted and acted upon by a Registering Officer in connection with any registration procedure. Procedure as per the Stamp Act in regard to unstamped or deficiently stamped instruments should be followed, if such powers are produced. Informal presentation of documents and crediting the fee to account has to be resorted to in cases where presentation procedure is involved. Formal presentation and recording of admission shall be allowed only after getting such powers either duly certified or on realisation of deficiency and fine, as contemplated in proviso (a) to section 34 of the Kerala Stamp Act.

**511.** Section 19 of the Kerala Stamp Act is a special provision which provides for the payment of duty in this State in instruments of the nature described in any article in the schedule and relating to any property situate or any matter or thing done or to be done in the State of Kerala which are executed out of the said State and subsequently received in the State. The above provision lays down that the amount of duty chargeable on such instruments shall be the amount of duty chargeable under the schedule on a document of the like description executed in the State of Kerala, less the amount of duty, if any, already paid on such instrument in any other State in India. Accordingly if a power of attorney falling under article 43(c) of the schedule to Kerala Stamp Act, is drawn up on a stamp valued Rs.10 of Calcutta (Bengal State) and executed in that State is received in this State, it would require a duty of Rs.10.00, to make up the duty of Rs.20.00 payable in this state. If for instance, a power of the above description drawn up on a stamp worth Rs.20 of Bombay State and executed in that state, is received in this State, it need not be stamped at all with the duty prescribed in the schedule.

512. Penalty will have to be levied on the instruments referred to in section 19 of the Kerala Stamp Act, if such instruments are impounded by Registering Officers on the ground that they are not duly stamped.
513. *When powers of attorney are to be attested:*— A power of attorney shall be authenticated as laid down in Rule 61 of the Registration Rules, only when it is for “registration purposes”. A power of attorney is deemed to be for “registration purposes” only when it authorises the agent to present and or admit execution before Registering Officers, of documents executed by the principal.

## CHAPTER XXIII

**Searches and Copies**

- 514. General:**— The expression ‘general search’ is applied to a search for more than one document concerning a specified property or for more than one document executed by or in favour of a specified person or family. The expression ‘single search’ covers a search for a single entry or document.
- 515. (a)** (i) Applications for single searches shall be in Form No.19 and general searches in Form Nos. 20 and 21. They need not bear any court fee stamp.
- (ii) Copies of the above forms shall be exhibited prominently on the notice boards of the Registration Offices for the information of the Registering Public. If printed forms of applications are not available, specimen copies of the above forms, neatly and legibly prepared in manuscript shall be exhibited in a prominent place on the notice boards of the offices.
- (iii) As far as possible, application for copies of documents, encumbrance certificates etc., shall be in the printed forms. But if the office cannot supply the printed forms, applications in manuscript shall be accepted. However, the manuscript must conform to the form prescribed when the application is presented in person. If the application is received by post, it shall be accepted, even if it is not strictly in the form prescribed, provided however that it contains all the relevant details that have to be furnished, had it been applied in the form prescribed.
- (iv) Applications for copies of miscellaneous records, reasons for refusals etc., shall bear a court fee stamp as prescribed in the Court Fees Act.
- (b)** Where an applicant requires a list of encumbrances on property created by or in favour of a specified individual, he shall be required to add a note to that effect on the application.
- (c)** A person applying for a search regarding a document registered in Book III or Book IV, shall be required to specify his title to search such books (Section 57 of the Indian Registration Act)
- 516. (a)** (i) Every application for search or copy shall be ledgered in Account D on acceptance.
- (ii) A Sub Registrar may, by means of an endorsement on the application, direct any clerk under him to conduct or verify a search other than searches in Books III and IV and the Indexes thereto.
- (iii) The applicants may also be permitted to conduct the search, if so desires. In such cases he may be permitted to conduct the search either by himself or it may be caused to be conducted, on his behalf, by a person holding a power of attorney. The power of attorney produced for the above purpose should be filed along with the application, if special and if general it should be returned to the party after noting the date of the power in the application. In the case of co-operative institutions such nomination or

authorisation for the conduct of searches, may either be endorsed on the application or it may be made on a separate paper.

- (iv) If the applicant who has expressed his desire to conduct the search by himself does not turn up for the purpose within the period specified by him in the application, the search shall be conducted by the office staff unless the applicant, in the meanwhile, cancels the search application.

**517.** Every application for a partial search received from another office shall be renumbered, the number assigned to it in the original office of receipt being underscored in red ink.

**518. (a)** A person applying for a search for encumbrances on a property consisting of more than one survey field or plot of ground, shall be required to append a declaration to his application specifying to the best of his information and belief, the owner of the property at the time of the application.

**(b)** When encumbrances discovered in a search throw any doubt on the correctness of the declaration so made by an applicant he shall be given an opportunity for reconciling the discrepancy and local testimony on the point may be accepted from trustworthy sources. Any facts thereby elicited shall be endorsed on the application itself. It is not intended that the Registering Officer should hold any elaborate enquiry over the matter.

**(c)** If in the course of a search or of an enquiry connected therewith, the Registering Officer finds that the property belongs to more than one individual, the applicant shall be required to pay additional fees and if he refuses to do so, he be informed without disclosing any particulars of the documents discovered, that the lands mentioned in his application and declared by him to be one property, have been found to be so many properties that the first property consists of certain specified survey numbers, the second property of certain specified survey numbers, and so on and that for the fee already paid by him, a certificate of encumbrance on any part of the property as grouped above or a list of documents executed by or in favour of a single individual in respect of all the property will be granted but that the fee already paid will not be refunded. The certificate which the applicant elects to take, shall then be prepared and issued.

**519.** The definition of one and the same property referred to in Rule 175(i) of the Registration Rules will include all the properties within the same village standing in the name of a single individual or family, the ownership being subject to verification with the results of the search as on the date of application. Properties situated in more villages than one, even if standing in the name of one and the same individual or family may for purposes of the above rule, be treated as comprising as many properties as there are villages.

**520.** An application for search may be disposed of in a manner advantageous to the applicant in the matter of search fee, e.g. if the property mentioned in an application consists of three survey fields of which two, A and B are owned by a single person and a third, C by him and two others, the application may be split up into two; one in regard to A and B and the other in regard to C. In this case two fees will be leviable and not three.

- 521. (a)** The grant of an encumbrance certificate upon a portion of an item of property is objectionable on the ground that the Registering Officer is unable to identify the portion mentioned in the application with the entries in his indexes, that he is obliged to rely on the applicant for information in tracing encumbrances on the portion and that consequently the applicant might secure a certificate which, while it shows all encumbrances, which suit his purpose, omits others adverse to his interest.

Such an application should be treated as relating to the entire property and charged with as many fees as there are owners subject to the Rule in Order 520. It is however, open to the applicant to amend his application by either (a) omitting the portion which is incapable of identification and applying for a certificate upon the rest of the property, or (b) applying for a list of documents executed by or in favour of the owner with reference to the property mentioned in the application. In either of these two cases, only a single fee is leviable.

It may however happen that a portion of a property mentioned in the application is capable of identification without reference to the applicant. For e.g., survey No.X is 70 acres in extent and from the a person A has had transactions in regard to a portion of it (30 acres) while in respect of the remaining portion there have either been no transactions at all or person B has had transactions; then an application for encumbrance certificate upon survey No.X (30 acres) Y and Z belonging to A will be capable of being dealt with without reference to the fact that a portion of survey of No.X is owned by B and it is necessary to treat the application as relating to survey No.X as a whole.

**(b)** When a survey number is subdivided and the party applies for an encumbrance certificate on the subdivision number only encumbrances on the subdivided property need be given. But in cases where the encumbrance certificate applied for is for periods, both prior to and after, subdivision in the survey number, the encumbrances on the whole survey number during the period when there was no subdivision, shall be included in the certificate.

- 522. (a)** As soon as the search is completed, a certificate containing all the encumbrances discovered shall be prepared and filed in the file of encumbrance certificates. When a Registering Officer intimates to the party, the necessity for the reconciliation of the discrepancy in the declaration under Order No.518(a) or calls upon the party to pay additional fees or to exercise the option allowed to him under Order 518(c) he shall fix a reasonable time which will depend upon the circumstances of each case within which the party should take the requisite action. If the party does not take the requisite action within the time so fixed, the fee already paid shall be considered as earned and a note of the circumstances under which the certificate was not granted to the party made in it, the copy of the encumbrance certificate intended for the party received from another office, under Rule 172 of the Registration Rules if any being placed in the correspondence bundle with a note to that effect entered in the office copy of the encumbrance certificate filed in the file of encumbrance certificates.

**(b)** If the party appears or applies within the time fixed and (i) reconciles the discrepancy under Order 518(b) or, (ii) pays the requisite additional fees under Order 518(c) or, (iii) requires a list of documents executed by or in favour of a single individual in respect of all the properties or, (iv) elects the group of

properties in respect of which he requires an encumbrance certificate, his request shall be complied with and the certificate already prepared shall be suitably amended and a copy of the amended certificate shall be granted to the party in forms prescribed with the printed entry in the two lines above the description of property altered as under '..... having applied to me for a list of documents executed by or in favour of ..... in respect of the undermentioned property.'

- 523.** (i) Encumbrance certificates shall be prepared and issued within 14 days from the date of receipt of application. The date of receipt of the application and the intervening holidays shall be excluded in calculating the period prescribed.

**NOTE:—** Searches in respect of applications for loans under the Low Income Group Housing Scheme, shall as far as possible, be completed within ten days and encumbrance certificates issued.

(ii) If a search could not be completed and its encumbrance certificate prepared within the time stipulated in order 523(i) a detailed report shall be forwarded to the District Registrar and Inspector General of Registration (direct) explaining the circumstances under which the search could not be completed and encumbrance certificate prepared within the stipulated time. An acknowledgement for the receipt of the above report by the Inspector General of Registration and District Registrar too must be obtained and filed along with the general search application.

(iii) The District Registrar and Inspector General of Registration will call for the necessary details and decide whether the delay has occasioned because of factors beyond the control of the Sub Registrar. If otherwise necessary action must be taken against all these officers who are responsible for the lapse.

- 524.** (a) Applications for searches for the issue of copies, shall be kept in one file-book. Applications for searches for encumbrance certificates and list of certificates shall be kept in another file. A third file-book shall be maintained for applications for copies of miscellaneous records such as appeal orders, depositions and other miscellaneous papers and copies of documents pending and refused registration.

(b) In the case of general searches to be made in more offices than one, the period of 14 days allowed for the completion of the search shall be calculated with reference to the date of completion of the searches in the office of receipt of applications and not with reference to the date of receipt of the certificate from the other office.

(c) When an application for a general search involves search to be made in more offices than one, the Sub Registrar to whom the application was made shall forward a copy of the application for search to the other Sub Registrar or Sub Registrars on the date of admission of the application itself.

- 525.** An application for opening a sealed cover and for a copy of a will after registration in Book III shall be kept with the cover, a copy being taken and filed in the 'single search and copy file'. In such cases, two applications should be obtained, one for opening the sealed cover and the other for granting a copy of the will.

- 526.** The number, assigned to the search application (serial No. of application for certificate) shall be entered on the encumbrance certificate relating to it and a reference to volume and page of file of the certificates of the encumbrance and



shall be added between the words “and” and “the number assigned”. The number assigned to the certificate shall be entered on the back of the application.

The copies of encumbrance certificates enjoined to be filed in Rule 174 of the Registration Rules shall be kept year-wise. Where there are a good number of certificates, additional volumes of files in serial order shall be kept. On every search volume the serial numbers of certificates kept in it, shall be denoted on the front page.

- 527.** Every application for search or copy shall be brought to account in Account D.
- 528.** When a search is made in two or more offices, the date of completion in each office shall be entered in the Account D which shall in the office in which the application is presented, also specify dates of receipt of intimations of the results of the searches in the other offices.
- 529.** Where a person is nominated to receive an encumbrance certificate, a list of documents or a copy, his address shall be obtained in the endorsement of nomination in the application and also in the appropriate place on the reverse side of the counterfoil to the fee receipt issued. The signature of the presentant and nominee too shall be obtained in the application and also in the counterfoil of the receipt, for the purpose of comparison when the nominee appears to take back the certificate, copy etc; (as the case may be).
- 530. (a)** An application for a certified copy of an extract from the registers of births and deaths whether an extract is granted or not, shall be filed in the file of applications for copies of miscellaneous records. It shall be accounted for in Account D in the same manner as other applications. The fee levied, shall be treated as a departmental receipt and remitted to the treasury under the head ‘*XV.(b)-Fees for copies of registered documents*’ or ‘*XV.(c)-Miscellaneous-Search fees*’ as the case may be.
- (b)** Applications for searches in registers of births and deaths shall be assigned numbers as for copies of miscellaneous records in Account D.
- 531. (a) (i)** If in an application for a search, for a single entry or document, the years in the records of which a search is to be made, are specified, search fees shall be levied in advance with reference to the number of years mentioned in the application.
- (ii)** In respect of applications for general searches, the fee levied in advance shall be credited in Account D whether the search is completed or not, on the day of the receipt of the application and fees.
- (b)** It is open to a party to mention a particular year in search application and if the required entry is not found in that year to mention at foot of the application, the individual year or years, not necessarily consecutive in which the search should be continued.
- (c) (i)** Registering Officers shall, when granting a receipt for fees for a general search, endorse on it the probable date when the encumbrance certificate will be ready.
- (ii)** A similar procedure shall be followed as regards applications for certified copies when stamp paper is produced. If the person producing the stamp paper does not bring back the receipt, the probable date when the copy

will be ready, shall be intimated to him orally and an endorsement mentioning that date made on the office copy of the receipt.

- 532.** The nominal searches in offices with concurrent jurisdiction should be treated as a separate search in each office and charged accordingly.
- 533.** A single search fee shall suffice when more than one copy of the same document is applied for in the same application.
- 534.** In the case of search falling under the proviso (1) to Article XI(2) of the Table of Fees only a single fee should be levied irrespective of the number of villages in which the properties are situated.
- 535. (a)** The period of one work prescribed in Note (i) under Article XI of the Table of Fees shall be calculated from the date on which the applicant received intimation of the result of the search. When the result is communicated to the applicant personally a note to that effect with the date shall be made on the application and the signature of the applicant obtained thereto. When the intimation is issued by post, the period shall be calculated from the probable date on which It would have reached the party by post in the ordinary course.
- (b)** In calculating the fee leviable for continued searches, the instructions in the Note (ii) under Order 409 in regard to the date of receipt of intimation should be followed.
- (c)** In the case of such continued searches, the subsequent application for the search and the encumbrance certificate should bear the same numbers as the original application and the encumbrance certificate respectively.
- (d)** It is not necessary to insist on fresh applications in the case of continued searches.
- (e)** When copies of different documents registered during one and same year, are applied for by parties in a single application (in single search application form) it should be viewed as different applications, and search fee should be calculated as if separate applications for each such copies are presented.
- (f)** When an application for certified copy of a document is made by a party, the party is entitled to have the copy of the document read out to him. The party, if after the entry is read out, endorsed on the back of the application, the copy is not required, the application shall be treated as closed. In such cases, when the copy of the document is required subsequently by the party fresh application shall be obtained with necessary fees.
- 536. (a)** A search fee is not leviable from a party executing or claiming under a document for the grant, on the occasion of the first application by him of a copy of an order of refusal to register such document even if application for the copy is made after the date of order of refusal and even if it is not intended to be used for purposes of appeal.
- (b)** The prescribed search fee shall however be levied when a copy of a refusal order is applied for by any person other than a claimant or an executant or when such application is made by a claimant or an executant who has already been granted a copy free of cost.

(c) Under section 71 of the Indian Registration Act, copying fees are not leviable for a copy granted for the first time to a claimant or an executant of a refusal order passed under that section but they are leviable for a copy of a refusal order under section 76 of the Act.

(d) In the case of an application for a certified copy of a return of land acquired under the Land Acquisition Act referred to in Rule 16(d) of the Registration Rules relating to several items of properties owned by different individuals, a single search and copying fee shall be levied.

(e) No search fee is leviable for granting copies of refusal orders under section 76 of the Registration Act.

537. (a) There is no provision in the Indian Registration Act or the Table of Fees for the Inspection of documents which have not been registered.

(b) Copies given under Rule 162 of the Registration Rules without the search fee shall not contain copies of the entries if any, made subsequent to the time of application.

538. *Searches:—*

(a) If an application is made for a search in Book III or Book IV, the Registering Officer who alone should make the search in those books under clause (4) of section 57 of the Indian Registration Act shall before making such search, obtain from the applicant, proof of his title to have those books searched with reference to the restrictions laid down in clauses (2) and (3) of that section. If the search proves fruitless the search shall be continued in Book I.

Similarly if an application is made for a search in Book I and the search proves fruitless, the Registering Officer shall continue the search in Books III and IV; if the requisite entry is found in the course of the continued search, he shall without revealing to the applicant the existence of such entry call upon him to furnish proof of his title to have those books searched. The contents of any entry thus discovered in Book III or Book IV, shall not be disclosed to the applicant unless he is entitled thereto under clauses (2) and (3) of section 57 of the Indian Registration Act.

(b) Searches concerning surveyed lands, shall be made both in index II and in the subsidiary index or as the case may be.

(c) In searches for copies, as the names or house names of the parties concerned, are taken as the primary criterion to conduct the search, index I shall be searched. But before a search is declared to be fruitless, index II also shall be searched and a note to that effect shall be made on the back of the application. Every fruitless single search in Book I and the indexes relating thereto shall be verified and the person verifying shall sign on the back of the application in token of his having done so.

(d) When the particulars of an entry found in the course of a single search do not tally in minor points shall with nevertheless, the particulars given in the application, the Registering Officer read out the entry to the applicant and if the entry so read out is not that which he requires, the fact shall be noted on the application and the signature of the applicant obtained thereto. Where the

applicant states that the entry read out is identical with the entry he wishes to inspect, a copy of the same shall be granted, if required.

539. A receipt shall be issued to a party in respect of a transaction ledgered in Account D even though no fee is leviable in cash in respect of the same.
540. In making searches in indexes I, III and IV, all the sheets pertaining to the initial letters with which a house name or name is likely to be spelt shall be searched.

In making a general search, it should be ensured that while the searching clerk goes through the records commencing from the earliest year onwards, the verifying clerk goes on with the search from the latest year downwards. The result of the search made by each clerk shall be handed over to the Registering Officer from time to time and the comparison between the two notes, shall be made on the completion of the search by both the clerks.

541. (a) As far as possible, only the permanent staff in a Sub Registry Office shall be entrusted with the work in connection with the preparation of encumbrance certificates. But when the permanent staff of the office is found inadequate to meet only abnormal increase in the number of applications, officiating clerks with not less than two years service in this department may also be entrusted with the work.

(b) Temporary copyists, temporary section writers and clerks appointed under the emergency provisions who have put in five years' service may be permitted to conduct single and general searches, when owing to pressure of work, the permanent clerks cannot be deputed for the purpose; but such temporary copyists, temporary section writers and clerks, shall invariably be entrusted with the duty of conducting the searches and not of verifying the result thereof. Searches in respect of house and property described by boundaries, however shall in all possible cases be made by the permanent clerks themselves.

542. *Encumbrance certificate:—*

(a) The date of registration of a document shall be the criterion for its inclusion in encumbrance certificates.

(b) The certificate of encumbrances on any specified property shall show all documents discovered during the search in the Registration Records. If an applicant desires that documents executed by a particular person, should alone be shown his request may be complied with but the fact shall be brought out clearly in the certificate as indicated in Order 522(b).

543. (a) The clerk who makes a general search shall himself prepare the certificate of encumbrances and the clerk who verifies the search shall check the certificate. Both clerks shall affix their signatures on the search application, as well as on the certificate of encumbrances. Similarly the clerks who prepare and examine certified copies, shall sign on the application and on the certified copy.

(b) The duplicate copies of certificates received from other offices under Rule 172 of the Registration Rules shall be filed along with the certificates prepared in the receiving office.

544. (a) The notes entered at the foot of the certificate in the form printed as Appendix VII to the Registration Rules do not absolve the officer or clerk who makes or verifies a search.

- (b) These notes regarding inaccuracy or omission shall be omitted in certificates of encumbrances granted to public offices.
545. (i) An encumbrance certificate once issued to a party shall under no circumstances, be corrected or revised without the previous permission of the Registrar.
- (ii) All notes of whatever kind made by clerk in connection with general searches prior to the preparation of encumbrance certificate, shall be only on the slips containing the results of the searches (Order 540) and nowhere else.
546. (a) When search has been completed or has reached the stage at which the office can go no further, papers such as notes regarding the search shall be surrendered by the clerks to the Registering Officer for action under Order 522(a).
- (b) A register of all encumbrance certificates shall be maintained in Form No.26.
547. *Certified Copies:—*
- (a) A copy of a document pending transcription or refused registration may be granted to a person applying for it, subject to the restrictions laid down in clauses (2) and (3) of section 57 of the Indian Registration Act. But copy of a document impounded for being not duly stamped, shall not be granted until it is registered. No search fees shall be levied for the same.
548. (a) On receipt of applications for copies, the applicants should be told what fee is required in each case and the whole amount should be collected in the first instance. Advance payments on account of fees for copies of document should not be received from parties before ascertaining by actual reference to the register volumes, what exactly the requisite copying fee is. This, however would not refer to applications for copies received by post.
- (b) As far as possible, certified copies applied for, shall be granted on dates of receipt of applications. The preparation of certified copies of documents and miscellaneous records shall be completed within three days including the date of production of stamp papers. The procedure prescribed in Order 523(ii) and (iii) for the delay in the preparation of encumbrance certificate shall be followed in case of delay in the preparation of certified copies also.
- (c) A copy of a document registrable in Book I, but inadvertently registered in Book II or Book IV, can be granted only to the persons referred to in clauses (2) and (3) of section 57 of the Indian Registration Act, unless and until the requisite particulars regarding the document are entered in the appropriate place in the indexes relating to the proper book under Rule 187 of the Registration Rules and the note prescribed by Rule 187(ii) entered at foot of the entry in the wrong book as well in the following form:—
- ‘Wrongly registered in Book 4/1/3 instead of Book  
1/3/4—Transferred to Book 3/4/1 under  
Registrar’s Order No .....  
dated .....
- (d) A Registering Officer can be guided only by the provisions of the Indian Registration Act in regard to the records under his charge and accordingly, he cannot grant a copy of an entry in Book III or Book IV to a person other than the

party referred to in clauses (2) and (3) of section 57 of the Indian Registration Act, whether at the request of the party or under the orders of a court. At the same time he is bound to obey the orders issued by competent Judicial Courts and produce the books, if so directed. In doing so, however, he should bring to the notice of the court, the provisions of clauses (2) and (3) of section 57 of the Indian Registration Act and leave it to the court to take such action as it thinks fit in regard to the inspection of any entry in the books.

**549. (a)** Registering Officers shall themselves receive the stamp and papers produced by parties for certified copies and enter their receipt promptly on the back of the application with their initials and date, noting also therein the number and value of the stamp papers and the number of blank papers produced. The value of stamp papers required shall be entered in the appropriate column in Account D at the time when copying fee is produced and entered in accounts.

**(b)** Registering Officers are to purchase stamp papers for certified copies for which applications are received by post, when the money required therefor is remitted in advance.

**550.** There is no objection to the grant of an extract from or a copy of portions of an entry of a registered document. In preparing such an extract all the endorsements, the certificates, the entries relating to stamp, the foot notes pertaining to the portion extracted and the names of the copyist, the reader and the examiner should be included in the copy.

The extract shall be certified as ‘true extract from the entry of document No. .... of Book .....

**551. (a)** Registering Officers may purchase stamp papers for certified copies for which applications are received by post when the money required therefor is remitted in advance.

**(b)** Copies of documents applied for by public officers for bonafide public purposes are exempt from stamp duty in the light of clarification issued in Government Memorandum No.G.1/67760/R.D., dated 8<sup>th</sup> December 1961. But whenever they require such copies to be issued on stamp papers produced by them, the request may be complied with.

**552.** When an agent applies for a copy of an entry in Book III or Book IV, he should be required to produce a power of attorney stamped under the Stamp Act and attested by any officer or a person who under the Rules, is authorised to attest affidavits and vakkalathnamahs.

**553. (a)** In granting a copy of an entry in a register which has been left unauthenticated by a Registering Officer or which contains unattested corrections, a note shall be added at the foot of the copy to the effect that the entry in the register has not been signed by the Registering Officer or specifying the unattested corrections. If the Registering Officer has attested, the corrections in the entry in the register without authenticating it the fact shall be mentioned in the Note.

**(b)** A note of previous registration made in the register or index does not form part of the entry of the document, as it is merely entered for purposes of reference by the officers of the Department. It shall not therefore find a place in the copy of the entry granted to a party. All notes of cancellation, modification or rectification

made under Rules 138(a) and 139 of the Registration Rules the note entered under Rule 187(ii), the note of stamp certificate entered under Rule 130, the note of destruction entered under Rule 224 (a), note of return and the notes of defects appertaining to items 5, 6, 7, 8, 16 and 17 of Class I - Appendix IX shall however, be included. All other notes of defects shall subject to the provision of clause (a) of this order be excluded.

**554. (a)** A copy of a document not compared with the original is not admissible as secondary evidence under section 63 of the Evidence Act. When application is made for a copy of an entry in a volume which has been recopied, the copy shall be prepared from the original register, the faded or illegible portions being entered within brackets marked or numbered in red ink and a footnote added to explain that they have been made out with the help of a copy, which when made originally was compared with the original entry in the register.

**(b)** If however the pages in which the original document has been copied have been damaged beyond recognition, the applicant shall be informed that a certified copy of, the entry cannot be granted from the damaged register, that if the copy is required for evidence in a court, he may apply through the court for the production of the reproduced copy kept in the Registration Office, and that the entry of the document Will be read out to him from the copy referred to when he may take notes for his private information.

**555. (a)** Copies of miscellaneous records such as appeal orders, depositions, petitions and applications may, on payment of the copying fees prescribed in article XII(2) of the Table of fees, be granted to any person connected with them or who shows to the satisfaction of the Registering Officer, that he is entitled to obtain a copy thereof.

**(b)** On payment of the necessary copying fee, a copy of an encumbrance certificate may be granted to the party at whose instance, the encumbrance certificate was first prepared.

**556. (a)** Section 57(2) and (3) of the Registration Act lays down that copies of entries in indexes 3 and 4 can be given to the parties subject to the restrictions laid down therein, But there is no such provision for issuing copies of entries in indexes 1 and 2 relating to Book I. Therefore, no applications for copies of entries in indexes or duplicates of the indexes 1 and 2 shall be entertained and no copies issued. Applications for copies of entries in indexes 3 and 4 shall be examined carefully and if the applicants are found eligible to get such copies they may be complied with.

**(b)** Search fee for entries in Register Books under article XI(1) and (2) and copying fee as per article XII(2) shall be levied for the issue of such copies. In regard to stamp duty such copies may be treated as falling under article 22(1) of the schedule to the Kerala Stamp Act.

**(c)** A File Book I volume shall be treated as a Register Book I volume for purposes of issue of copies. Necessary search and copying fee have to be levied accordingly.

**(d)** As regards entries in photo file volumes (Kozhikode and Palghat Districts) copying fee shall be levied only as per the rate prescribed in article XII(2) of the Table of Fees, besides the search fee prescribed in article XI.

(e) There is no objection to the grant of a copy of a plan attached to a document whether or not a copy of the document is granted at the same time. If the copy cannot be prepared in the office, the applicant should be asked to make his own arrangements to prepare the copy.

**557. (a)** Government Officers are permitted to search and take down copies of documents for public purposes without any payment. A certificate of encumbrances requisitioned by such officers for such purposes is also free from fee. They shall however, depute a subordinate officer for making the requisite searches and preparing copies. Such copies shall be compared, attested and sealed by the Registering Officer.

(b) The requisite search for the preparation of encumbrance certificate shall ordinarily be made by a Government Officer requiring such a certificate provided that such work shall be conducted by the office staff with regard to the following requisitions:

- (i) The encumbrance certificates under the Agricultural and Industrial Loans Acts,
- (ii) Encumbrance certificate in connection with sums due to Government other than those to be recovered under the Revenue Recovery Act and
- (iii) Encumbrance certificate for loans from the Credit Bank or Land Mortgage Bank.

(c) No search or copying fee is exempted with regard to the requisitions from the Devaswom Department or the Central or State Governments Subjects to the directions under Order 557(b).

(d) Searches for income-tax purposes.

- (i) The view of the Board of Revenue that facilitates to gather information from the records in public offices in the State for purposes of income-tax assessment may be granted to Income-tax Authorities as a very special case 'is accepted by Government' as long as the State receive the same facilities from the Centre (G.P.S.R. 2-8142/50/R.D., dated 10<sup>th</sup> May 1951).
- (ii) 'Government consider that the instructions issued in their proceedings cited above, extending facilities to gather information from records in public offices in the State for purposes of income-tax assessment, should incorporate the following restriction which is contained in section 53(3)J of the Indian Income-Tax Act, so as to comply with the requirements of law and they order accordingly of such facts to an officer of the State Government as may be necessary for the purpose of enabling that Government to levy or realise any tax imposed by it'. (G.P.D.Dis. 8066/51/R.D., dated 12<sup>th</sup> January 1952).

**558.** The term 'public officer' referred to in article XI proviso (ii) of the Table of Fees has been used only with reference to the officers of the Kerala State in conformity with Rule 158 of the Registration Rules.

**559.** Certified copies should be legible and accurate. Registrars should when they inspect the Registration Offices, pay particular attention to this item of work and



examine certified copies if any, lying unclaimed to see whether they have been correctly prepared and legibly written and a paragraph setting out the result of such examination should be added in Part I of the Inspection report.

**560. (a)** Copies of orders or records which one department of Government proposes to supply to another department an application shall be made on plain unstamped paper and by the ordinary staff.

**(b)** Copies of receipts shall in no case be issued on the ground that the originals have been lost. In such cases a certificate as contemplated in Rule 114(v) of the Registration Rules may however be issued after levying the prescribed fee of **rupee one**.

**561. (a)** Copies of miscellaneous records supplied by Registering Officers as well as copies of documents or of entries in registers and indexes shall be certified to be 'true copies' and such certificate shall be dated and signed by the officer concerned with his official designation and seal. Each page and all corrections and foot-notes in the certified copy shall be attested by the initials of the Registering Officer.

**(b)** In all copies granted by the Registering Officers, the notes of corrections in the copy shall be entered at foot of the last page after the word 'true copy'.

**562.** The following dates shall be noted on the copy or the certificate granted to the applicant, and the application:—

- (1) The date of the receipt of the application, for a copy or an encumbrance certificate,
- (2) The date of the completion of the search,
- (3) The date on which the party is required to produce stamp and other papers,
- (4) The date on which stamp and other papers are produced,
- (5) The date on which the copy of the certificate is ready, and
- (6) The date of delivery or despatch by post of the copy or the certificate.

**563. *Production of Register Books in court:—***

The following direction shall be observed in producing records in courts outside the State. If the records are of a confidential nature, privilege can be claimed under the Evidence Act. But it shall be explained to the court. Register books and thumb impression registers are not records of a confidential nature. Hence, whenever requisitions are received, they have to be produced as required in the summons and received back as from courts within the State.

**564.** Registering Officers shall take particular care that whenever valuable records are forwarded to courts, they are sent in sealed packets. They shall also check and ascertain when such records are received back, that they are retransmitted in sealed packets without any damage. Necessary instructions in the matter have been issued to the subordinate courts by the High Court.

**565. *Return of encumbrance certificates and certified copies:—***

When encumbrance certificate or certified copies are taken back by parties or their nominees, their acknowledgements in token of having received the same, shall be obtained on the respective applications and also in the counterfoil of the fee receipt.

- 566.** The encumbrance certificate and certified copy to be sent by post at the request of parties, shall find an entry in Account E. As regards their despatch, levy of postage charge and their accounting, the procedures as prescribed under Order 265 shall be adopted. If an encumbrance certificate and certified copy sent by post is returned undelivered, they may be treated as unclaimed.
- 567.** In case, a party at the time of application or subsequently desires, that the certificate or copy may be sent by service unpaid, his requests may be complied with. The request made in the above behalf should be in writing.

## CHAPTER XXIV

**Preservation and destruction of records**

- 568. (a) *Records and correspondence:***— The records maintained in registration offices are mostly valuable records of title. Special care shall therefore be taken regarding their preservation and against tampering. Registering Officers are responsible individually for the safe custody of the records in their offices.
- (b)** Records and record-receptacles should be maintained with utmost care. The record room should always be kept clean, neat and tidy and the records kept well arranged. The windows of the record room, as far as possible, should be kept open during the working hours of the office. This will enable adequate light and air to pass through, thereby preventing dampness and eliminating the formation of fungus.
- (c)** The keys of the record room should always be in the custody of the Sub Registrars and they should never be entrusted to any of his subordinates in his absence. The record room should always be locked when the Sub Registrar is not in office. Entry into the record room by members of the staff when the Sub Registrar is in office should be only for specific bonafide purposes, and with the permission of the Sub Registrar. They should not be allowed to linger in the record room for a moment longer than is absolutely necessary. Completed register books, indexes, and such other permanent records should be kept only in locked receptacles in the record room.
- (d)** If a Sub Registrar notices any lack of care on the part of any member of his staff in handling the records, he should immediately obtain in writing the explanation of the person concerned and take suitable further action. In regard to any damage, however, shall, that occurs, the Sub Registrar should submit a report to the District Registrar indicating the nature and extent of the damage, the names of persons responsible together with their explanations and indicating from whom and in what proportion the cost of recopying or rebinding the records so damaged may be recovered. The District Registrar should take prompt action on the records and deal with them summarily. If the Sub Registrar fails to discharge the duties in this regard properly or fails to report any damage to the records promptly, the cost of repairing the damaged volumes should be recovered from the Sub Registrar himself.
- 569.** No paper or record of an office shall be taken either by a Sub Registrar or by a clerk to his house or elsewhere from the office unless it is required in the course of business eg:- at private residence.
- 570.** The period for which each class of records shall be preserved is shown in Appendix VI.
- (a)** Registers, indexes and other books shall be placed upright on the shelves. Where however, the paper in a volume is crumbling or shows signs of deterioration, the volume shall be laid flat and no weight even that of another volume shall be placed upon it.

- (b) Every book, file or bundle shall have a label pasted on its back exhibiting the number assigned to it and indicating its contents.
- (c) The registers and indexes shall also hold an additional label on the front board.
- (d) Labels for registers and indexes shall be in forms prescribed (Form numbers 38 and 39).
572. Records which are not maintained in files or bound books, shall be preserved between record-boards with an appropriate label.
573. A record placed between boards in Registration Offices shall be so folded as to be of semi-foolscap size.
574. The arrangement of records and registers in record-receptacles shall be in the consecutive order of the serial numbers, the volumes pertaining to the same book or file being placed together. All completed registers, indexes and thumb impression books shall be kept separately from current records.
575. (a) The contents of each record-receptacle shall be ledgered in a register which shall be kept in the iron-safe or cash chest. (Form No.40).
- (b) A certificate in the following form shall be appended to the last page of the register and on every occasion of transfer of charge, the officer assuming charge shall sign the certificate with date.

Certified that the contents of record-receptacles have been verified with the entries on every page of this register and found to be correct, that all the records are duly accounted for and that all the alterations, etc., in the entries made in this register have been attested.

<i>Date of verification</i>	<i>Signature and designation of the officer verifying</i>	<i>Remarks</i>
(1)	(2)	(3)

- (c) The contents of each record receptacle shall be noted shelf-war on the inner side of doors of almirahs or on the top of the rack as the case may be, to facilitate easy reference.
576. (a) Naphthalene shall be placed on the shelves or D.D.T. sprayed on all receptacles containing records.
- (b) Record receptacles shall be placed on stone or iron pedestals thickly tarred. Where this is found impracticable, the floor where the receptacles are placed, shall be thickly tarred to prevent the ingress of white ants.
- (c) When it is considered necessary that special precautions should be taken against attack by insects, a strong solution of shellac in spirit shall be applied with a soft brush in the case of books over the boards of the book, outside and inside and over the outer edges of the leaves all round when the book is closed and in the case of other records over the outer edges of the papers.
577. **File books:**— In addition to the file books prescribed by the Indian Registration Act and the Rules thereunder, such file-books as are ordered to be maintained by the Inspector General shall be maintained in each office.

- 578.** Every reference book newly supplied shall be scrutinised by the Sub Registrar in a Sub Registry Office and by the Sub Registrar of the amalgamated office in a Registrar's Office, to see that every page is in fact and that there are no defects. A certificate embodying the result of such scrutiny shall be ordered on the inner side of the title page of the book within a fortnight of its receipt.
- 579.** When the opening of a new office is sanctioned, the Registrar shall supply to it such books of reference as are available in his own office and submit to the Inspector General, an indent for the rest.
- 580. *Recopying of fading entries:***— When a page in a register book shows signs of crumbling or an entry, signs of fading or has been torn or spoiled, the page or entry shall, with the previous sanction of the Registrar, be recopied. In no case shall recopying be sanctioned by a Registrar unless he has himself inspected the volume concerned and satisfied himself that during the process of recopying neither the entries to be recopied nor the volume as a whole is likely to suffer greater damage.
- 581. (a)** When in a register book only a few page show signs of crumbling or fading they alone shall be recopied. But when a major portion of a volume shows signs of crumbling or fading, it is always advisable to recopy the entire volume.
- (b)** The presence of holes or the discoloration of sheets shall not ordinarily be considered to be defects calling for recopying unless from observation, the holes are found to enlarge and the discoloration of sheets becomes more and more manifest.
- (c)** Where the signature of the Registering Officer alone is fading, no recopying is necessary; but a note signed and dated by the Registering Officer, shall be made on the fly-leaf or title page giving the name of the signatory.
- 582.** One or more special volumes of each class of register shall be opened for recopying and the damaged fading entries shall be recopied only in the respective special volumes. Special volumes of each class of registers shall be consecutively numbered along with other registers and entered in the permanent record register under a sub-head "special volumes for recopying".
- 583.** Indexes shall however, be recopied in loose sheets and treated in the manner as provided for below:
- (i)* When index volumes pertaining to an year have to be recopied, the Registering Officer should ascertain whether register book volumes pertaining to that year are in good condition; if any of the volumes of the year shows signs of crumbling or fading the recopying of the register books should be attended to at the outset; the work of recopying of indexes being taken up after recopying the register book volumes of the year. There is no point in recopying stray entries in the index when any volume of indexes becomes so damaged as to be practically useless. The entire volume shall be recopied in loose sheets and the recopied sheets of indexes bound up into volumes.
- (iii)* The loose sheets in which stray entries of indexes have been recopied, shall be secured safely between boards and shall be bound into volumes of convenient size. A table of contents shall also be entered on the covering page.

- 584.** When an entry is recopied a note of the fact shall be made at the foot of the entry in the original register book and also in the title page or fly-leaf of the same to the effect that the entry has been recopied on pages ..... to ..... of special volume No. .... of book ..... when an entire volume is recopied, a note to that effect shall be entered in red ink on the label on the back of the original volume as well as on the title page or the back of the volume containing the reproduced entries.
- 585.** As soon as each entry in the register book is recopied the volume and the pages of the special volume in which the entry is recopied shall be noted in red ink in the columns therefor in the indexes relating thereto, so that the recopied entries shall readily be spotted out without referring to the original entries. Suitable cross reference notes as contemplated in Rule 220(iii) of the Registration Rules shall be entered in the concerned indexes also as in the case of register books.
- 586.** Where consecutive entries in a volume are recopied, the system of continuous copying shall be adopted.
- 587.** In recopying entries relating to 1865, (in Malabar area) it is not necessary to reproduce them in the exact form in which they are found in the original registers i.e. in tabular form with the number, year and other particulars on one side of a double folio and the date of registration, copy of instrument, etc., on the other side. The recopying shall be continuous, the number, headings and entries in all columns except 'copy of instrument' being first copied, continuously followed by the copy of the instrument which shall be separated from the other entries by a line ruled across the page.
- When more than one entry has to be recopied, the printed headings of the several columns of the original register need be reproduced in full only in respect of the copy of the first entry, the columns being referred to by their numbers, without headings in subsequent entries. 588. The number of the document recopied shall be noted at the head of each receipted entry.
- 589. (a)** The recopied entry shall be an exact copy of the original entry including the names of the copyist and examiners and the notes of corrections and interlineations in the original entry.
- (b)** The words 'true copy' within brackets shall be added at the foot of each entry which shall be closed and authenticated in the manner laid down in Rule 220(v) to (viii) of the Registration Rules.
- (c)** Rules 134 of the Registration Rules regarding the authentication of entries in register books applies to the authentication of recopied entries also. The entries recopied each day shall be compared and authenticated on the same day.
- 590.** The original shall be faithfully reproduced as it is found in the register book or indexes and any missing or undecipherable letters, words or figures shall not be filled up by guessing from the context.
- 591.** The original volumes which have been recopied wholly shall be packed and sealed with labels pasted on their back showing their contents. Such volumes shall not be handled unless absolutely necessary.
- 592.** Fading entries in red ink in old indexes shall be reproduced in the original index sheets themselves either immediately above or below the original entries or

wherever space may be available on the page but the original entries themselves shall not be interfered.

- 593. *Binding***— Records pertaining to a calendar year in a Registry Office that are to be bound, shall be got bound in the next calendar year.
- 594.** Every Sub Registrar shall before the 15<sup>th</sup> January of each year, prepare a list of volumes to be bound or re-bound in his office and forward the same to the Registrar to whom he is subordinate. All volumes pertaining to the previous year like indexes, etc., shall invariably be included in it.
- 595.** Volumes to be re-bound, shall be included in the list only after obtaining the previous sanction of the Registrar. The following procedure shall be observed in the matter. Sub Registrars shall during the annual verification of volumes or when volumes are handled in the course of searches in connection with the issue of copies or encumbrance certificates, make a note of such volumes which require re-binding. These shall be brought to the notice of the Registrars in the course of their half-yearly inspection of the offices. The Registrars shall, after examination of such volumes, satisfy themselves of the necessity of re-binding them. Specific orders of sanction shall, thereupon be issued by them with directions to include them in the list of volumes to be re-bound in the ensuing year. Such orders of sanction shall invariably be quoted on the margin of the list prepared.
- 596.** Re-binding or re-stitching of thumb impression registers shall be avoided as far as possible. The existence of one or two loose pages or other similar defects do not justify recourse to re-binding. In such cases, the registers shall be secured and further damage prevented by packing such registers in paper and sealing them. Suitable label showing the contents of the packet and the reason for sealing shall be noted on the packets.
- 597.** Volumes in which the sheets are crumbling shall not be handled by the binder.
- 598.** No written matter appearing near the edges of pages including the page number, shall be cut by the binder under any pretext. Copying and indexing clerks shall be warned to avoid writing near the edges of pages.
- 599.** On receipt of lists enjoined in Order 594 above, from the Sub Registrars of his district, the Registrar shall consolidate them and forward the consolidated list to the Inspector-General of Registration before the end of the first week of February.
- 600.** Binding work in respect of the whole State shall be given out in contract, tenders being invited for carrying out the work throughout the year.
- 601.** Notification calling for sealed tenders for the binding of registration records (records to be specified) both District-wise and State-wise, shall be published in the Government Gazette specifying a date, after which no tenders shall be accepted.
- 602.** Besides publication in the Gazette, wide publicity shall be given to the notification. The Registrars to whom copies of such notifications are sent, shall cause them to be published in the notice-boards of their own offices, as well as on those of all the Sub Registry Offices in their jurisdiction. All sealed tenders shall be sent direct to the office of the Inspector General of Registration. No notice shall be taken of tenders forwarded otherwise.

603. After opening the tenders and due Government sanction obtained, accepting the lowest and suitable tender, intimation shall be given to the successful tenderer as well as to the Registering Officers.
604. The successful tenderer shall execute an agreement in the form prescribed (Form 41) before he is allowed to take up the work.
605. The work of binding shall be executed neatly and expeditiously as per terms of the contract and within the time prescribed.
606. On completion of the work, every Sub Registrar after ensuring that the work has been done satisfactorily, shall prepare a bind list in triplicate (Form No.42). A copy of the list shall be issued to the binder, another forwarded to the Registrar and the third retained by the Sub Registrar in his office.
607. The Registrars shall, on receipt of such lists, consolidate them (in Form No.43) and forward a copy to the Inspector General of Registration for necessary allotment of charges.
608. Binding charges have been included in the item of District charges. Accordingly Registrars shall, after obtaining allotments draw and disburse the amounts due to the contractors on proper acknowledgements.
609. The head clerk or senior clerk in a Sub Registry Office, shall examine each volume before and after binding so as to ensure that the pages are in tact. A certificate to this effect shall be entered on the front or back page of the volume bound and signed by the Sub Registrar.
610. Volumes of register books and indexes 1 and 2 shall invariably be bound in full leather (full-leather binding). All other records including indexes 3 and 4, shall have only half-leather binding. The term 'royal size full binding' would refer only to rebinding cases indicated above.
611. **Record Register:—**  
(a) The registers of records referred to in Rule 218(i) of the Registration Rules shall be maintained in Form Nos. 44 and 45.
612. (a) The entries in column 4 shall be made against each class of record and the receptacle in it is kept, shall be denoted in the form of a fraction, the numerators denoting the number of the almirah or rack and the denominator that of the shelf or compartment thus A. 12/2 or R. 12/7.  
(b) A table of contents shall be attached to each register of records.
613. When a register book has been recopied either wholly or partially the words 'recopied completely' or copied in part, as the case may be, shall be entered against the entry in the register of records and the entry so made, shall be initialled and dated by the Registering Officer.
614. (a) Permanent and temporary records shall be entered in the respective registers in alphabetical order in the former and in the order of length of the period of preservation in the latter.  
(b) Records grouped under the same period shall, as far as practicable, be entered in alphabetical order.



- (c) Post and Telegraph and Railway guides are classed as temporary records and shall be entered on a separate page under the head 'miscellaneous reference books'.
- 615. (a)** In a Registrar's Office, a separate page shall be allotted for account books of reference.
- (b)** In all offices, a separate page shall be allotted to each of the following:—
- (i) The Registration Manual, (ii) The Stamp Manual, (iii) Kerala Gazette and (iv) Other Acts and Publications.
- (c)** Every reference book newly supplied shall be scrutinised by the Sub Registrar in a Sub Registry Office, and by the District Registrar in a District Registrar's Office to verify that every page is intact and that there are no defects. A certificate embodying the result of such scrutiny shall be entered on the back of the title page of the book, within a week of its receipt.
- (d)** A proper and complete record of all reference books shall be maintained in each office so that the responsibility for losses of the books, if any, can be fixed. All books and publications in a District Registration Office should be in the personal custody of the District Registrar (or such other officer authorised in writing by the District Registrar) who will be responsible to the safe preservation of the books. As far as a Sub Registrar's Office is concerned, all books and publications shall be in the personal custody of the Sub Registrar himself, who shall be responsible for their safe preservation in good condition.
- (e)** During this inspection, the District Registrar shall verify that (i) all books received during the period covered by inspection have been entered in the pages specified in order 615(a) and (b), (ii) that all the books specified in the pages referred to in order 615(a) and (b) are in actual existence.
- 616. (a)** When the same volume of a book contain documents of several years, such as Book 2, it will suffice to note in column 2 and 3, the first and the last numbers with their years eg:- "1 of 1908 to 10 of 1912".
- (b)** Under the head 'Government Gazette', one entry shall suffice for each year, the several volumes received being noted therein.
- (c)** In columns 2 and 3 shall be entered the initial and the last letters in the case of nominal indexes, the first and last villages in the case of index II and the names of the villages in the case of subsidiary indexes and settlement registers.
- NOTES:—** Where settlement registers, etc., have been bound into volumes, each relating to a group of villages it will suffice to enter the first and the last villages against each volume.
- (d)** Loose sheets of indexes Nos. I, II, III and IV shall first be entered in red ink date-wise with reference to letters in nominal indexes and panchayats or villages in index II. At the close of the year, the sheets shall be alphabetically arranged into volumes of 500 pages, the volumes serially numbered and re-entered in black ink and the record register.
- 617.** When two or more records are entered under the same head eg:- Reference books, columns 2 and 3 may be utilised for a description of the records.

618. Corrections slips shall not be brought to account separately in the register of records, since they are entered in the memorandum of corrections attached to each book.
619. Service registers and service rolls shall find a place in the temporary record register, the entries following the name of the subordinate.
620. As soon as a register or paper relating to an item of record noted in the schedule to Appendix No. VI is opened, it shall at once be entered in the temporary or permanent record register under the proper head. Numbers and dates of the first correspondence, in correspondence files, shall be entered as far as possible. Date of beginning and date of last record or year end, shall be noted respectively in Columns 2 and 3.
621. In regard to correspondence files, all the papers shall be sorted and bundled together at the end of the year according to the period of preservation, labels showing the nature of disposal like D.Dis., R.Dis., etc, Suitable entries in the register of records as bundle one or file I shall also be denoted at the end of the year.
622. Where the entries in regard to a certain item of record in a year is continued in the same book or register of the previous year, the entries shall, nevertheless, be made for the new year with the remark that the same book is continued.
623. *Examination of records and record receptacles:—*
- (a) The record receptacles shall be personally examined by the Sub Registrar himself regularly and the examination shall be so arranged that each receptacle is examined at least once in six months. At every examination, the entire contents of the receptacles shall be taken out dusted, aired and put back after the receptacles have been examined and cleaned thoroughly to ensure that they are free from damp, vermin and insects. Any damage noticed shall be reported to the Registrar immediately.
- (b) It is not necessary for the purposes of clause (a) that the record receptacles should be examined on the same day on each occasion. In heavy sub-offices the duty of examination may be distributed among the members of the office establishment, provided the same receptacle is not examined by the same person on two successive occasions. In a Registrar's Office, the duty shall be delegated only to the Record Clerk. In cases where the duty is delegated to a clerk in a Sub-office, or to the record clerk in a Registrar's Office, the Sub Registrar in a Sub-office or the Sub Registrar of the amalgamated office or the Registrar in a Registrar's Office, shall initial in column 4 of the Register in token of his having seen to the work being done by the clerk concerned.
- (c) The examination shall be noted in a register (Form No.46), which shall be prefaced by a list showing the number and description of the record receptacles.
624. (a) A report shall be submitted on the 15<sup>th</sup> January in each year to the Registrar by a Sub Registrar and to the Inspector General by a Registrar, that all the existing records have been entered in the record register (Order 611) and that all the records entered in those registers are in existence except such temporary records as have been destroyed after the lapse of the prescribed period. This annual verification shall be made in the Registrar's Office by the Registrar himself and the records

shall be verified with the record register once again in July or August every year by the Sub Registrar of the amalgamated Office.

**(b)** The entries in the record registers shall also be checked on each occasion of transfer of charge (except in connection with casual or examination leave or Court attendance) of the post of the Sub Registrar of the amalgamated office in a Registrar's Office and of the Sub Registrar or Senior Sub Registrar in a Sub-office. Such checking shall take place in the presence of both the relieving and relieved officers and shall be completed before the certificate of transfer of charge is signed.

**(c)** In every case of checking the certificate printed at the close of the Register shall be signed in token of such check. (Form 47).

**625. (a)** The following precautions shall be taken against the ingress of squirrels and rats into the Record Room or Record Receptacles:—

- (i)* The air-holes if any in the record room shall be closed.
- (ii)* The branches of trees if any approaching the record room shall be cut off to prevent squirrels from entering into the record room therefrom.
- (iii)* Rat traps shall be supplied to the offices where these pests are found to be common and menacing.
- (iv)* The shutters of the iron record-racks shall be lined with wire-gauze if necessary.

**(b)** Registrars shall state in their inspection reports whether these precautions have been duly taken.

**626. Rectification of omission:—**

**(a)** No addition or alteration in an endorsement or an original document or in the entry pertaining thereto, in any of the Register Books, is permissible after the entry has been closed and authenticated by the Registering Officer. Defects or Errors discovered after authentication shall be reported to the Registrar, who when they are remediable, shall order their rectification by means of a footnote to be entered under the entry and also when necessary, under the endorsement on the original document. In the latter case, the note under the entry shall refer to the note made on the original document. The Registrar may order that any defect or error which cannot be entered appropriately as a foot note to the entry shall be noted on the back of the title page or margin. Every Note entered under the orders of the Registrar shall contain a reference to the number and date of those orders.

**(b)** The procedure prescribed above shall also be followed when any omission or error is detected subsequently for instance when the entry is examined in the course of a search or during the preparation of a certified copy or during the further examination prescribed.

**(c)** If the Registrar is unable to pass orders on any points included in a report seeking directions for remedying any defect, he shall make a report of the facts to the Inspector General of Registration and abide by his directions.

**(d)** Errors and omissions made in a document by a party cannot be allowed to be remedied after admitting the same to registration. Such errors and omissions should be remedied by them, by executing rectification deeds.

**627. Examination of completed books:—**

(a) After a register book, a thumb impression register or a file-book I (Registration Rule 16) has been utilised completely, it shall be again examined minutely by the Sub Registrar within a fortnight of the date of the last entry in order to ensure chiefly that the pages are intact, that all the entries are authenticated and that every scoring interlineation, etc., in each entry is attested. The date of completion shall also be noted against the volume number in the ledger.

(b) Any defect or error noticed in this examination shall be reported immediately to the Registrar who after obtaining the orders of the Inspector General, when necessary, shall cause such error or defect to be rectified or noted as directed in order 626.

(c) As soon as the examination is completed, and a report if any is submitted to the Registrar, a certificate shall be entered in the following form in the register book, thumb impression register or file-book, below the certificate prescribed by order 842(c).

“Certified that I have examined this register (file book) after completion and that it contains no defects/ (a report of the defect has been made to the registrar ..... in No ..... dated the ..... 19....)”

On receipt of the Registrar’s orders directing the rectification or noting of the defects reported by the Sub Registrar, a certificate in the following form shall be added:—

“The following defects are noted hereunder the orders of the Inspector General/ Registrar, No ..... dated the ..... 19....

(a)

(b)

(c)

For defects which have been noted at foot of the copy of the document under the orders of the Inspector General/Registrar No ..... dated the ..... 19....., see pages .....

**628. Periodical Examination of Register Books:—**

(a) The completed volumes of registers, thumb impression registers and file book I, shall be examined periodically by the Registering Officer in whose custody they are maintained. The examinations of volumes other than those examined under Order 627 shall be minute; each page shall be returned over and particular care shall be taken to ascertain (1) whether the volume is intact, (2) whether any writing therein shows signs of fading and requires to be recopied, (3) whether the pages have in any way deteriorated or require to be repaired, (4) whether there are palpable omissions or defects which have not been noted already and (5) whether the entries show any signs of having been tampered with.

(b) A volume, the pages of which are crumbling and the handling of which is likely to result in further damages shall not be subjected to the periodical examination contemplated by clause (a) but the fact shall be noted as such in the ledger suitably.

(c) It should be noted that the object of the examination is to see whether the records are preserved intact and that no tampering or damage is caused to them. A critical examination of the substance of the entries themselves is therefore unnecessary.

- 629. Ledger:**— In each Registration Office, a ledger shall be maintained in Form No.48, in which every register volume, file book I and thumb impression register shall be entered, the volume of each set of books being entered in their serial order with the date of completion. Half a page shall be allotted for each volume, more than one ledger being utilised if necessary. As soon as register or file book is examined under Order 627 or 628, the date of such examination shall be noted in column I of the ledger and if no defects are found, the word “nil” will be entered in column 2 and attested with the signature of the Sub Registrar in column 3. If any defects are found and a report submitted to the Registrar, a brief gist referring to the report shall be entered in column 4 of the ledger. On receipt of the orders of the Registrar, the fact shall also be noted in column 4.
- 630.** At the time of the Registrar’s first inspection of a Sub Registry Office each year, a list in duplicate shall be submitted to him by the Sub Registrar, showing the old volumes proposed to be examined during the next calendar year. The number should be suitably fixed with due regard to the volume of current work and the number of completed volumes in an office subject however to a maximum of 60 volumes. The Registrar, after scrutinising the list and making alterations, if found necessary, will sanction the proposal. One copy of the list will be given to the Sub Registrar and the other retained by the Registrar for future reference in his office. The examination should as far as practicable, be spread over evenly throughout the twelve months.
- 631.** Particular care shall be taken for the preservation of thumb impression registers to prevent them from being tampered with in any way. After the examination prescribed in Order 627 on completion of each volume, it shall be packed by fastening length wise and breadthwise with twine or tape and sealed. The whole volume need not be covered. Such packets need be opened only for periodical examination and after every examination they shall be packed again and sealed as before.
- 632.** In a heavy office, the examination of volumes may be entrusted to the Joint Sub Registrar if any, or to the head clerk or the senior clerk as the case may be.
- 633.** The defects if any found during such examination, shall be reported to the Registrar for his orders of rectification. Reports so submitted and orders received thereon, shall be noted in the last column of the ledger and if no defects are detected, the word ‘Nil’ shall be entered in column 3, as enjoined in order 629.
- 634.** Inspecting officers shall examine in detail some of the completed volumes of register books, thumb impression registers and file-books, in order to check the work of the officers in charge of the records and they shall record their examination in the inspection notes. They shall avoid taking up for examination, a register or book examined at a previous inspection, when there are books that have not been examined.
- 635.** Every certificate or Note entered in the register volume, as well as Thumb Impression Registers, shall be dated and signed by the officer making it.

636. The ledger and the correspondence relating to the rectification of mistakes in Register Books, shall be preserved as permanent records.
637. *Transfer of records:—*
- (a) When a register book or any record pertaining to an office, is transferred to another office, the fact with the order number and the date under which it is so transferred, shall be noted and initialled by the Registering Officer in the Record Register.
- (b) When a register or record is forwarded to a court under Rule 176, it shall be packed, sealed and forwarded in charge of a responsible clerk. A forwarding letter shall be addressed to the Presiding Officer of the court with a list of the records forwarded. A note of despatch shall be entered in the record register, which shall be attested by the Registering Officer. The return of the register by the court shall also be noted likewise.
638. A Register in Form No.49 shall be maintained in each office showing details of transmission and return of records, whenever a requisition from a court is complied with. Reminders recalling the record shall be issued monthly and reply, if any, received shall be noted in column set apart for the
639. *Destruction of Records:—* The Inspector General of Registration shall sanction each year, the destruction of temporary records after the expiry of the period prescribed for their preservation (Vide Appendix VI). The period of preservation shall be calculated with reference to the date of the last disposal of entry in a book or file.
640. (a) The destroyable records in every office shall be destroyed positively before the 15<sup>th</sup> of April each year. Before acquittance rolls and pay bills are destroyed, the head of the office shall satisfy himself that the procedure in regard to the maintenance and preservation of service books prescribed in the Service Regulations has been followed.
- (b) Each Sub Registrar shall submit to the Registrar to whom he is subordinate on the first day of October each year, a list in triplicate (in Form No.50) of records in his office which are destroyable in the following year. An office copy of the list need not be retained by him.
- (c) The Registrar shall after proper scrutiny, forward two copies of the list on or before the first day of November to the Inspector-General of Registration for necessary sanction.
- (d) The Inspector General of Registration will issue orders endorsed in the remarks column of the list retaining a copy of the list as office copy of the order in his office.
641. On receipt of orders of sanction, the Registrar shall make a note of the orders in the copy retained in his office and then forward the copy containing the original orders to the Sub Registrar concerned.
642. On receipt of sanction, the Sub Registrar shall prepare a list of records sanctioned to be destroyed and publish it on a conspicuous part in front of his office. The records as per the list shall be destroyed three months after such publication. On the expiry of the period specified the Sub Registrar shall destroy the records, certify the fact in the list, write notes regarding the destruction against the entries in the

record register and submit a report of the fact to the Registrar. The Registrar shall thereupon, report the matter to the Inspector General of Registration.

643. A similar list of records to be destroyed in a Registrar's Office shall be prepared and submitted in duplicate in November, every year for sanction of destruction by the Inspector-General of Registration. The same procedure as hereinbefore prescribed in regard to destruction of records in Sub Registry Offices, shall be followed in Registrar's Office also.
644. A portion of a book or a file shall not be proposed for destruction.
645. The destruction shall in a Registrar's Office, takes place in the presence of the Registrar or the Sub Registrar of the amalgamated office and in a sub-office in the presence of the Sub Registrar. The destruction shall be by burning.
646. A clerk acting for a Sub Registrar in a short vacancy shall not destroy records, the destruction of which has been sanctioned by the Inspector General of Registration but the destruction shall be deferred until an officer of the grade of Sub Registrar assumes charge.
647. The Inspector General of Registration may at his discretion, direct the retention of any record ripe for destruction for a longer period than that specified or order its retention permanently.
648. The Registrars and Sub Registrars shall place before the Inspector General of Registration such confidential papers as they consider may be destroyed and abide by his orders.
649. Notwithstanding anything contained in the foregoing rules, no paper of special importance shall be destroyed without the special sanction of Government.
650. The Inspector General of Registration shall be competent to sanction the destruction of records relating to his own office and shall annually publish in the Gazette a list of records of his office sanctioned to be destroyed and they shall be destroyed only on the expiry of the period of three months after such publication.
651. These rules relate only to the preservation and destruction of records brought into existence after the introduction of the Kerala unified Rules relating to destruction. Records prior to that date may be preserved and destroyed as per the Rules then in force.
652. *Correspondence Telegrams:—*
- (a) State telegrams shall be sent as a general rule as 'ordinary' and messages shall be classed as 'express' only in very urgent cases and where the despatching officer knows that the line is blocked and his message is sufficiently important to take precedence of ordinary traffic.
- (b) Telegrams shall not be sent where the object can be attained without inconvenience or delay in ordinary correspondence through the post.
- (c) In framing telegraphic message, special care shall be taken to avoid undue prolixity.
653. The abbreviated address "registration" shall be used in all State telegrams intended for the Inspector General of Registration.

654. Telegrams of a personal nature regarding applications for leave, appointments and other matters shall not be sent at the expense of the state.
655. *Ordinary correspondence:—*
- (a) Save as provided in rules or orders issued by the Inspector General or by the State Government, no Government servant may address directly any superior authority in writing other than the one which he is immediately subordinate in any matter relating to the official duties or affecting him personally as a Government servant.
- (b) Every application by a Government servant for an appointment or promotion, shall be sent through the proper channel.
- (c) Sub Registrars are prohibited from addressing District Officers of other Departments directly. If a Sub Registrar has any representation to make as regards the action of a District Officer of another department or of any of his subordinates or of others over whom the District Officer may exercise control, he shall report the facts to the Registrar and it is for the latter to deal with the matter.
656. Dignity and decorum shall be observed in official correspondence. Letters and reports shall as far as possible be brief, to the point and matter of fact. Whenever copies of order or of letters addressed to officers of this or other departments of the State or Officers in the same or other departments in another State are submitted to the Inspector General, such copies shall invariably be forwarded under a separate covering letter. They shall not be forwarded by merely docketing them.
657. All applications to or correspondence with Government or the Ministers shall be through the head of the department.
658. Sub Registrars shall use the report forms either in Malayalam or English, in corresponding with the Registrar or Inspector General of Registration; 'while the Registrars shall use memorandum form in issuing orders to Sub Registrars'.
659. Generally all correspondence from Sub Registrars to the Inspector-General of Registration shall be through the Registrars. In addressing the Inspector General of Registration, Registrars shall use the official letter form.
660. (a) Communications shall be complete in themselves and independent of enclosures. Enclosures may be appended for reference on points of detail.
- (b) Separate communications shall be sent for distinct matters.
- (c) Previous correspondence shall be quoted by date and number for reference purposes.
661. Official correspondence not of a confidential nature shall be sent to official address. Demi-official covers shall be addressed by the name and official designation. As regards despatch of communications the instructions given in Manual of Office Procedure shall be followed.
662. *Item-war arrangement of Records:—* The description of records that are to be maintained in the various offices and the period of their preservation in the case of temporary records are specified in the schedule to Appendix VI.
663. Every item of record, permanent or temporary, shall be assigned separate pages in the respective record register.



664. A few pages shall be reserved for items, the entries of which may require larger space such as register books, indexes, etc. When the allotted pages are exhausted the entries shall be continued in other available pages with necessary cross-references.
665. The serial number of each record or register, as shown in the schedule to Appendix VI shall be noted at the top of the entry relating to it in the record register. The same number shall also be denoted on the records except in the case of register books and indexes for reference purposes.
666. The instructions contained in Form 78, Chapter IX of the Manual of Office Procedure, will be followed as far as practicable in the matter of disposal and preservation of correspondence. Government orders, important proceedings or memoranda issued by the Inspector General of Registration relating to nature of documents, registration procedure, stamp, fees, service matters, etc., and circulars regarding account matters issued by the Accountant General shall be preserved permanently by filing them. Other classes of papers will be disposed off according to their importance in one or the other of the five categories mentioned in the above para of the Manual of Office Procedure, viz., “R”, “D”, “K”, “L” and “N”. “R” disposals are to be preserved permanently. “D” disposals are destroyable after ten years. “K” disposals after three years and “L” disposals after one year. Papers to be sent out in original are to be marked “N” Dis. When the letter “X” is prefixed to a disposal it means the paper is not to be registered. Thus “X.N. Dis.” means a paper not to be registered but to be returned in original. “X.L. Dis.” means a paper not to be registered, but to be lodged. Periodicals, statements and returns are not to be registered or numbered with other correspondence.
667. At the end of the year, the disposed off papers under each of the categories “D”, “K” etc, will be bundled up between card board strips and the serial number allotted to the bundle in the register of records with its nature of disposal and the year to which it relates shall be noted on top of each bundle. All the records are to be arranged and bundled year-wise. The several bundles of the same category of disposal relating to different years shall be kept in one larger bundle: eg. The “R. Dis.” bundles of successive years will be kept in one bundle and the “D. Dis” bundles for the previous 8 or 9 years, will all be kept in another bundle.
668. The temporary records shall be arranged serially according to the serial entries in the register on racks or almirahs to facilitate sorting and detachment for purposes of destruction when ripe.
669. The entry of note of destruction as per Order 642 shall invariably quote the number and date of the order of the Inspector General of Registration.
670. **Current Registers:**— The Manual of Office Procedure shall generally be followed in the matter of correspondence in all district offices.
671. In Sub Registry Offices, the personal register shall be used in registering all papers received or ‘arising’. The instruction given below shall be followed in maintaining the register.
- (i) All papers (of correspondence) received shall be entered in the register serially in the order of receipt.

- (ii) A current number in serial order (terminable with each calendar year) shall also be assigned to each paper received or originated in column 2, the date of receipt of origination being shown in column 3.
- (iii) The purport with references as to from whom received etc., shall be entered in column 4 and reply if any, sent to that particular paper shall be noted in column 7 with the date of despatch (No separate number need be assigned for such replies).
- (iv) All papers arising from the office shall also be entered in the same register. In regard to such papers, the purport shall be entered in column 4 with other particulars as to whom sent, etc., in column 7. The word "arising" within brackets shall be entered in column 4 after noting the purport.
- (v) The nature of final disposal of each paper such as filed or recorded D.Dis, X.Dis., etc., as the case may be, shall be entered in the last column.
- (vi) As soon as a reply is furnished to a reference, it shall be treated as disposed of, for purposes of entry in column 10 of the register. Further reference on the same has to be treated as a fresh paper.
- (vii) References to previous or back papers if any, either for replies furnished or replies received may be noted in column 8.
- (viii) Columns 5, 6 and 9 need not be filled up in Sub Registry Offices.
- (ix) Papers pending action if any at the close of each year, shall be brought forward to the succeeding year with cross-references for further action. Now serial numbers in column 1 shall however, be given, But in column 2, the current numbers of the previous year with the year shall be entered preferably in red ink.
- (x) Volumes of Personal Registers may be continuously used, if pages are available, but entries relating to a year, shall be closed before entries relating to the succeeding year, is begun.

**672. Despatch Register:**— A postal delivery book in form No.51 shall be maintained in each office, in which all covers despatched, shall be entered. The value of service stamp affixed to each cover shall be noted in the relevant column.

**673.** Separate registers shall be maintained for despatches by post and local delivery.

**674. Service stamp account:**— A service stamp account shall be maintained in each office in which the daily account of the value of service stamps used and balance available, shall be entered. The stamps received shall also be noted suitably when allotments are sanctioned and stamp bills encashed.

## CHAPTER XXV

**Appeals, Applications and enquiries****675. Appeals:—**

(a) A register shall be maintained in every Registrar's Office (Registration Form No.28) in which shall be entered particulars regarding appeals filed under section 72, applications under section 73 and enquiries under section 74 of the Indian Registration Act.

(b) As soon as an appeal is admitted or an application is received or an enquiry under section 74 of the Indian Registration Act is decided upon, it shall be entered in this Register. Appeals and applications under sections 72 and 73 of the Indian Registration Act, shall be numbered in one series and original enquiries in another, commencing and terminating in each case with the calendar year. Original enquiries may be numbered with the letters O.E. prefixed so that they may be distinguished.

(c) All time-barred appeals and applications which are rejected by the Registrar shall also be ledgered in this Register.

(d) When on appeal a Registrar declines to direct the registration of a document, particulars as to the book, volume and page in which the refusal order has been copied as also the number of the refusal order shall be entered in column II of the register of appeals maintained under clause (a) after the substance of the decision itself.

(e) After the particulars in all the columns have been filled in, they shall be attested by the Registrar with date.

**676.** Appeals and applications may be accepted and filed by Sub Registrars of amalgamated offices in the absence of Registrars, but they are not authorised to conduct enquiries.

**677.** A case dairy (Registration Form No.29) shall be maintained for each appeal application or enquiry in a Registrar's Office and prefixed to the records of the case entries being made therein at each stage of the proceedings.

**677.** Depositions shall be taken down by the Registrar in his own hand on loose sheets of papers in the language of the deponent, or in English and shall be kept with the records of the case.

**678.** Appeals shall not, as a matter of course, be posted to be heard in camp, but they shall be heard as far as possible at the headquarters only, unless the parties to the case belong to the sub district to be inspected and express in writing that it may be heard while the Registrar is in camp in their sub-district.

**680.** (a) The final order of a Registrar whether recorded in Book II or separately with reference to Rule 202 of the Registration Rules, shall be drawn up in the prescribed form (Form No.30). The Registrar shall after making an order under section 75 of the Indian Registration Act, draw up separately a decree in form prescribed in the Civil Procedure Code, bearing the date of the order, clearly specifying therein the

amount of costs of the enquiry and how they have to be in borne. If the cost is not made payable to the successful party, the reasons therefor shall also be stated. Where owing to delay in getting full information regarding the costs, the decree is subsequently drawn up, it should be dated with the date of the order and should also show the date on which it is actually signed.

**(b)** Every decree should be drawn up within 15 days from the date on which the judgment is pronounced.

**(c) (i)** The provisions of sections 9(1) and 10(1) of the General Clauses Act apply to the calculation of—

(1) the period of 15 days allowed for the drawing up of decrees and

(2) the period of seven days for filing the statement of costs and Pleader's certificate of receipt of fees mentioned in Rules 95 and 96 of the Civil Rules of Practice.

*(ii)* The scale of Pleader's fee to be adopted will be left to the discretion of the Registrar, subject to a minimum of Rs.5 and a maximum of Rs. 100.

*(iii)* The production of the Pleader's certificate of receipt of fees prescribed by Rule 95 of the Civil Rules of Practice should be insisted on. If the certificate is not filed within the prescribed period, the decree should be draw up without Pleader's fee (Rule 95 of the Civil Rules of Practice).

*(iv)* The period of 15 days allowed for drawing up the decree may be extended in cases where extension of time is allowed for the filing of the Pleader's certificate of receipt of fees (Rule 95) and the statement of costs under Rule 96 of the Civil Rules of practice.

**681.** In every Registration office a file designated 'File of Appeal Orders and Judgments' shall be maintained and in it shall be preserved—

*(i)* The final order of the Registrar in appeals, applications and enquiries when registration is ordered (Rule 202 of the Registration Rules).

*(ii)* The drafts of the orders of refusal referred to in Order 682.

*(iii)* Copies of Registrar's final orders communicated to Sub Registrar's under Rule 205 of the Registration Rules.

*(iv)* Copies of orders or decrees of courts filed by parties directing the registration of documents and copies of orders and decrees received from courts cancelling the registration of documents or declaring documents to be benami transactions;

*(v)* Copies of judgments of criminal courts, whether they are copies received from courts or are copies thereof prepared departmentally.

*(vi)* The orders of the Registrars passed on applications under sections 25 and 34 of the Indian Registration Act, regarding delay in presentation and appearance;

*(vii)* Memoranda mentioned in Rule 186 of the Registration Rules.

- 682.** When a Register refuses to direct the registration of document under section 72 or section 75 of the Indian Registration Act, the order passed by him may be copied in Book II by a clerk, the copy so being treated as the original and signed by the Registrar himself without the addition of the words 'true copy'. The Registrar's draft from which the copy is made, shall be filed in the file of Appeal Orders and Judgments.
- 683.** In cases where an appeal or an application is withdrawn by the party or an original entry is stopped at his instance, and order should be briefly recorded, stating the circumstances in which the document was returned to the party, but no entry need be made in Book II. Copies of such orders need not be forwarded to the Sub Registrar concerned.
- 684.** When a Registrar directs registration of a document under section 75 of the Indian Registration Act, he shall specify in his order that the provisions of sections 19, 20, 21, 23 and 32 have been complied with.
- 685.** Registrars shall ensure that the requirements of Order 446 have been complied with in cases falling under that order.
- 686. *Records connected with appeals:—***
- (a)** The records connected with each appeal, application or enquiry shall be filed together chronologically in two parts, the whole being preceded by a list (Form No.31) and the case diary (Form No.29) the papers in each part being numbered in a separate series.
- (b)** Part I shall contain the appeal petition, the suit document, a copy of the refusal order, protest petitions, depositions, exhibits filed, a copy of the judgment and of the decree, execution petition and orders thereon memorandum of cost and all other papers of importance bearing on the case.
- (c)** Part II shall contain the list of witnesses, batta memorandum list of records to be produced, summons and notices issued, vakkalaths, petitions for adjournments, petitions for return of exhibits, receipts for documents and money and all other records of minor importance.
- (d)** In the remarks column of the list shall be noted such facts as the return of the suit document and other exhibits.
- 687.** When an alleged executant appears after the expiry of the first four months from the date of execution and denies execution, no appeal lies under section 72, but an application may be made to Registrar, under section 73 of the Indian Registration Act on the ground of denial of execution.
- 688.** In cases where the refusal order of a Sub Registrar is based on the ground that the executant did not appear even after the expiry of the full time allowed;
- (i)* If the presentant had taken no steps to enforce the appearance of the executant, the latter cannot be held to deny execution and the refusal order falls under section 34(1) and the appeal under section 72 of the Indian Registration Act;

(ii) If however such steps have been taken and processes issued, although abortively, the non-appearance is tantamount to denial of execution and the refusal order falls under section 35(3)(a) and no appeal lies under section 72 although an application may be made under section 73 of the Indian Registration Act.

- 689.** If the rejection of an appeal or application is found to be irregular on account of any clerical or arithmetical mistakes committed in calculating the period of time-limit within which an appeal or application lies, a Registrar may, on the analogy of the provisions of section 152 of the Civil Procedure Code (Act V of 1908) rectify the error, take back the application on file and proceed with the hearing.
- 690.** In an appeal under section 72 of the Indian Registration Act preferred against an order of refusal to register, based on the ground that the executant of the document is a minor, an idiot or a lunatic, the Registrar shall, when ordering its registration, on finding the executant to be a major or of sound mind, as the case may be, direct that the document be registered, if the executant appears before the Sub Registrar, again and admit execution of the document.
- 691.** When registration of a document has been refused by a Sub Registrar under section 71 of the Indian Registration Act, on the ground of denial of execution by one of the alleged executants, no suit will lie in a civil court to compel registration unless an application has been made to the Registrar under section 73 of the Act, to establish the right of the applicant to have the document registered and has been made, within the time allowed by the Act and the Rules.
- 692.** The Registrar is not a court nor a judicial officer. He is simply a public official performing certain functions under the Indian Registration Act. When under these circumstances, an application made to the Registrar after the time-limit has expired and is rejected on the ground of limitation, such rejection cannot be considered as a refusal to register within the meaning of clause (b) of section 76(1) of the Act.
- 693.** In an appeal filed under section 72 of the Indian Registration Act against an order of refusal to register for want of sufficient description of property, a Registrar has no power to call for fuller description of the property.
- 694.** As regards appeals and applications Registrars shall be guided by the following instruction:—
- (a) The provisions of part XII of the Indian Registration Act regarding appeals are applicable to wills.
- (b) An appeal against an order of refusal to register does not require to be stamped under the Court Fee Act.
- (c) The presentation of an appeal to a Registrar after the time limit against the refusal of a Sub Registrar to register a document on denial of execution, does not give any locus standi for the institution of a proceeding for enquiry as to the execution of the document.
- (d) The period of thirty days referred to in sections 72 and 73 of the Indian Registration Act takes effect as if it were prescribed in the schedule to the Indian Limitation Act (Act X of 1922). Accordingly in computing the period of thirty

days prescribed in the above sections, the party is entitled to the exclusion of the time necessary for obtaining a copy of the Sub Registrar's reason for refusing to register.

**(e)** The meaning and intention of the words 'within thirty days from the date of the order' and 'within thirty days after making the order' in sections 72 and 73 of the Indian Registration Act are identical,

**(f)** The expression 'making of the order' in section 77 of the Indian Registration Act means not merely recording the order of refusal in writing, but communicating it to the party concerned so as to bind him by it. An order does not become an order unless and until steps are taken by the officer, passing it to bring it to the consciousness and knowledge of the party against whom it is passed. If the party affected by the order acts in such a way as to prevent the officer from communicating it to him, within a reasonable time after he has written it, it may be that the date of the order would be the date when it could have been brought to the knowledge of the party within a reasonable period.

**(g)** It is hardly possible, in the absence of judicial decision to lay down what is to be the nature of the enquiry which a Registrar is empowered to hold under section 74 of the Indian Registration Act. The duty of a Registrar is to enquire whether the document was executed and upon this question he may deem himself entitled to receive all relevant evidence offered by the parties. At the same time, a Register would exercise a sound discretion if he confined the enquiry as closely as possible to the question of execution or non-execution.

**(h)** Where an application for registration of a sale deed had been presented after the expiry of the period prescribed by law for registration and had been dealt with under section 25 of the Indian Registration Act and the Registrar had passed an order under that section directing that the document should be registered (i.e., accepted for registration) on payment of the prescribed fine and such fine was paid. Held that the requirements of the law had been complied with and that it was not competent for the successor in office of the Registrar, dealing with the document under section 74 of the Indian Registration Act, to go behind the order of his predecessor, nor was it for the court in a suit instituted under section 77 to question the propriety of that order, which was given in pursuance of the discretionary power allowed to the Registrar to accept documents for registration after the time prescribed.

**(i)** It is competent to a Registrar to transfer a decree for costs under section 75 of the Indian Registration Act to a District Munsiff's Court for execution, whenever such course is required by the decree holder and appears proper.

**(j)** A Registrar is not a court within the meaning of the provisions of the Civil Procedure Code and it has been held that they cannot interfere with his proceedings awarding costs in appeal presented under section 73 of the Indian Registration Act.

**(k)** Where on the failure of the executant, of a deed presented for registration, to appear though twice summoned, the plaintiff asked the Sub Registrar either to register or to return it to him and the Sub Registrar returned it to the plaintiff. Held that under the circumstances, the Sub Registrar's order in returning the document amounted to a refusal to register.

**695.** Registrars have powers to demand for production of prisoners in enquiries under section 74 of the Indian Registration Act.

In such cases, Registrars should provide for the escort of civil prisoners who are summoned to appear before them.

**696.** No appeal lies to a Registrar in respect of a document which is not refused registration by a Sub Registrar, but is withdrawn from registration by the presentant, i.e., returned to him at his request.

**697.** A Register (in Form No.32) shall be maintained in every Registration Office, showing particulars of documents discredited by Civil Courts and the reasons for discrediting those documents.

**698.** When the registration of a document is refused by the Registrar and the party obtains a decree from the civil court ordering its registration, a copy of the judgment delivered by the court should be submitted by the Registrar to the Inspector General of Registration for perusal.

**699. *Enquiry by Sub Registrars:***— A Registering Officer may conduct such enquiries as contemplated in Rule 70, of the Registration Rules when a non-testamentary document is presented for registration after the death of the executant.

A clerk placed in charge of a sub office shall not conduct the above enquiries.

**700.** Under section 35 of the Indian Registration Act the fact that the legal representative of a deceased executant happens to be also claimant under the document to be registered, does not affect his capacity as representative to admit the execution thereof by the deceased executant.

**701. (a)** The record of each day's proceedings in respect of a document which is presented for registration after the death of the executant or the executant of which dies before admitting execution, shall be noted in a case diary maintained in Form No.14 separately for each document.

**(b)** All the records connected with the enquiry under Rule 70 of the Registration Rules with the exception of Depositions which must be recorded in the "deposition book" [Rule 179(ii)] shall, at the conclusion of the enquiry, be stitched together chronologically with a facing sheet indicating the number and year of the document to which the enquiry appertains, followed by a table of contents giving the date and a brief abstract of each document in the file. Cross reference to any deposition which may have been taken shall appear in the record in the appropriate place.

**(c)** The record shall be preserved for thirty years.

**(d)** Appeals, applications and original enquiries shall ordinarily be disposed of within 3 months.

**(e)** Adjournments shall not be granted on flimsy grounds and shall be restricted to the minimum.

**(f)** Judgments shall be pronounced normally within 3 days after the evidence and arguments are closed.



## CHAPTER XXVI

**Inspection and enquiries**

- 702. *Inspection by Registrar***— Each Sub Registry Office shall be inspected by the Registrar twice a year.
- 703.** Once in every six months, the Registrar shall, inspect the amalgamated Sub Registrar's Office in the same manner as he inspects a Sub Registrar's Office. An office copy of the report need not be maintained.
- 704. (a)** The inspection of Sub Registry Offices in a district shall be spread over the calendar year. As far as possible all the offices which are situated in the same direction shall be inspected in a single tour. No single tour shall ordinarily exceed three weeks in a month.
- (b)** In selecting offices for any particular tour, Registrars shall give preference to those offices regarding which complaints have been received or where local enquiries have to be held, or where the Registering Officer is due to retire shortly.
- (c)** Registrars shall not depute peons to carry tappals to camp. Tappals requiring urgent attention may, however be arranged to be sent to camp by post.
- 705. *Consolidated tour list:***— The Registrars shall submit a consolidated month-wise list of offices to be inspected every half year. The list shall be submitted in the first week of June and December every year, so as to get it duly approved by the Inspector General of Registration, before the regular monthly tour programme is submitted.
- 706.** As far as possible, the order of offices proposed to be inspected in the approved list shall not be altered.
- 707. *Submission of Tour Programme:***—
- (a)** A tour programme in Form No.52 shall be submitted by the Registrars to the Inspector General of Registration for each month in triplicate at least ten days before they actually proceed on tour.
- (b)** Ordinarily Registrars shall commence their tours of inspection only after setting their tour programmes duly approved.
- 708.** The tour programme shall contain the following information:
- (a)** (1) The dates of inspection. (2) Details of journey from ..... to ..... (3) Distance in kilometers (4) Station and number of days of halt. (5) Date of last inspection. (6) Approximate number of registrations for the period covered by the inspection. (7) Remarks.
- (b)** (i) The total number of offices in that District.  
(ii) No. of copies so far inspected.  
(iii) No. of offices included in the previous programme which will be inspected before the present tour.  
(iv) Number included in the present programme.

- (v) No. of offices that remains to be inspected, shall also be given at foot.
- (c) Registrars shall conduct their tour of inspection strictly according to the approved tour programme. If any change become necessary on account of unavoidable circumstances, the fact shall immediately be reported to the Inspector General of Registration, with the reasons which necessitated the change:
- (d) Tour diaries shall invariably be submitted by the Registrars towards the close of every month.
- 709.** Registrars shall observe the following instruction in preparing their tour programmes.
- (i) Two days may be taken for inspection of a Sub Registry Office.
- (ii) If the inspection of all the relevant records of a Sub Registry Office, could not be completed within the stipulated period of 2 days, the District Registrar may, if he thinks it necessary, request for an extension of time by one day for the inspection in the II half explaining the circumstances in detail. Want of time shall not stand in the way of an effective, efficient and complete inspection of a Sub Registry Office.
- (iii) No office shall be inspected on a holiday.
- 710.** Appeals may be posted in camp, but adjournments shall in those cases be rarely allowed. When such an adjournment is granted, the day allotted for the appeal shall be utilised for inspection work.
- 711.** A Registrar may take one clerk with him on his tours of inspection to assist him in the inspection work. He may also take two other clerks exclusively for the purpose of examinations of the indexes which shall be thorough and on the lines indicated in Order 713(b). The names of such clerks with their respective ranks in the list of clerks and their qualifications, shall be shown in the consolidated tour list submitted as per Order 705, for approval of the Inspector-General of Registration. Their names shall be shown in each tour programme also.
- They shall not be changed during the course of the year except in unavoidable circumstance such as promotion, accident, illness, death etc., in which case an immediate report shall be submitted to the Inspector General. Clerks accompanying the District Registrar in one round of inspection shall not be taken under any circumstances during the next round to the same office. The Junior Superintendent of the Administrative section of the Registrar's Office shall not, under any circumstances, be taken on tours of inspection.
- 712. (a)** The duty of the camp clerk consists in assisting the Registrar in his inspection work. Accordingly, in the Registrar's absence, he shall not be allowed to inspect or handle any of the records in a Sub Registry Office, except in the immediate presence of the Sub Registrar. A certificate shall be appended at the end of Part II of each inspection report, that the inspection clerk was not allowed to inspect or handle any of the records except in the immediate presence of the Registrar or the Sub Registrar.

(b) The Registrar shall supervise the work of his camp clerk, test a few entries in the records examined by him and satisfy himself that the scrutiny by the latter, has been thorough. By reference to the records, the Registrar shall also ensure that the remarks noted by the clerk are correct, complete and unambiguous.

713. The chief object of the Inspection of a registration office is to ensure the proper maintenance of the valuable records for the accuracy and trust-worthiness of which the Department is responsible to the public, the due observance of the formalities prescribed by the Act, the Registration Rules and the Standing Orders and the prompt compliance with all the requirements of the public who resort to the office. During his inspection, the Registrar shall, accordingly examine minutely every book, accounts and returns maintained in the sub office relating to the period commencing from the date of the last inspection up to that of the current inspection. In respect of the undermentioned records, the instructions as contained therein shall receive special attention:-

(a) **Register Books:**— The Registrar shall turn over at least 1,500 pages of the register books relating to the period in question, so as to satisfy himself that they are faithful records of which they purport to evidence that they are intact, that no tampering has been attempted that the entries have been duly authenticated and that all corrections and footnotes have been duly attested. The said number of pages may be distributed among the several volumes as may be found necessary, entries in Books II, III being examined fully and exhaustively. Some of the entries shall be compared by the Registrar with the original documents remaining unclaimed in the office.

**NOTE:**— In respect of every entry in the register book, minutely examined by the Registrar, he shall also check the corresponding account, receipt books, index II and subsidiary indexes simultaneously.

(b) **Indexes:**— In the examination of indexes accuracy, completeness, preparation in such a manner as to make them easily available and freedom from any signs of tampering are points which shall receive special attention.

The indexes shall be examined carefully in order to ensure—

- (1) that the indexes have been prepared in the prescribed form;
- (2) that every document, memo, etc. has been indexed promptly;
- (3) that items which are common to index Nos. I and II tally in each of those indexes;
- (4) that the entries regarding 'date of execution' 'date of presentation' and 'nature and value of transaction' in index No.II tally with the corresponding particulars entered in Account A;
- (5) that a document found to affect property in more villages or pakuthies than one has been indexed in all the villages or pakuthies lying within the Sub-District;

- (6) that as regards cases falling under clause (5) reference has been given in column 1 of each entry in index No. II to all the villages or pakuthies and Sub-Districts in which the immovable property is situated;
- (7) that there is no omission of survey numbers and the description of property is sufficient for purposes of identification in tracing encumbrances and registered documents;
- (8) that notes of previous registration and references have, where necessary, been entered in respect of documents such as rectification deeds, cancellation deeds, revocation deeds, etc.,
- (9) that subsidiary indexes have been duly and correctly posted in all cases of registrations in Book I.

**(c) Accounts and returns:**— All the accounts shall be examined Account 'D' shall be checked completely with reference to the general and single search applications filed in an office for at least one month. The Registrar shall also examine the 'H' Account and check the remittances with the chalan receipts for the period covered by the inspection.

**(d)** Contingent registers shall be scrutinised to ensure that they are properly maintained. Expenditure shall be checked with the contingent vouchers.

**(e)** Accounts F and G shall be scrutinised rigidly.

**(f) Searches:**— The Registrar shall ensure that there has been no avoidable delay in complying with applications searches. He shall verify at least two fruitless single searches if there for are any and one general search.

**(g) Thumb impression register:**— The impressions on unclaimed and uncopied documents shall be checked with those in this register.

**(h) Miscellaneous records:**— As the Registrar is responsible for the inspection as a whole, he shall look into all records and satisfy himself that everything is in order. Important miscellaneous records such as the deposition book, the minute-book and the file of powers of attorney, register of revocation of powers of attorney, etc., shall be gone through by the Registrar minutely.

**(i)** Three per cent of the documents registered in Books 1, 3 and 4, subject to minimum of 50 documents shall be examined by the District Registrar during the period of inspection which is spread over two days normally. The 3% must be from Book 1, 3 and 4 separately. (Book 2 entries all of which are to be examined, are excluded in computing the number). The number must be spread out among the different category of documents. The District Registrar will specify the number of each and every document the nature of which has been verified by him in the form given below which shall accompany the inspection report:

“Details of documents inspected and checked by Sri (specify name) District Registrar (specify District) during his inspection of Sub Registry Office on (Specify dates)

<i>Sl. No.</i>	<i>Doct. No.</i>	<i>Book No.</i>	<i>Year</i>	<i>Nature</i>	<i>Whether the stamp borne and fee levied are correct</i>	<i>Any other defect in this document or the entry relating thereto</i>
Total No. of documents checked					X	
Total number of documents registered during the period covered by inspection					Y	
Percentage					$\frac{X}{Y} \times 100$	

**714.** The condition of the building, the furniture and the records and the requirements of the office shall be specifically taken note of.

**715.** The manner in which acting clerks have discharged their duties and their conduct shall be examined. The entries in the ledger shall also be checked generally.

**716. *Inspection reports:***— Inspection reports of Registrars shall consist of three parts of which Part I shall be divided into Part I-A and Part I-B. The inspection report shall be in the prescribed form (Form No.54). The following items shall be included in Part I-A:—

(1) Building, (2) Jurisdiction, (3) Accommodation, (4) Furniture, (5) Office charge, (6) Particulars of establishment, (7) Arrears of work if any, (8) Collections and remittances, (9) Enquiries, (10) Minute book (11) Depositions, (12) Documents presented and admitted after the 4<sup>th</sup> month from date of execution, (13) Refusals, (14) Copying work, (15) Thumb impression registers, (16) Books, forms and stationery articles, (17) Records, (18) Inspection reports, (19) Chitties and Kuries, (20) Other functions exercised by the Sub Registrars, (21) Volume of work in the office and (22) Other items which the Government or Inspector General of Registration orders from time to time.

Part I-B shall consist of remarks on all serious irregularities such as short levy of stamp duty, excess or short levy of registration fees and serious irregularities in procedure. They shall be recorded in defect sheet to be attached to the report as required. After Part I-B, the Register shall record his considered opinion on the general condition of the office, consistent with the remarks in the inspection report, and the work of the Sub Registrar during the past half year. The opinion shall generally come under one of the following categories. (a) Good. (b) Very satisfactory. (c) Satisfactory. (d) Fair. (e) Not satisfactory, adducing reasons for the opinion and when necessary, the remarks of Registrar, under the same item shall be entered in column 2.

**717.** Sub Registrar's explanations and Registrar's further remarks and order of the Inspector of Registration Offices (Headquarters) Trivandrum shall be entered in

columns 3 to 5 respectively. The reply of the Sub Registrar regarding rectification if any, shall be added in column 6.

- 718.** Defects or irregularities in register books and other registers which require orders of the Inspector of Registration Offices (Headquarters) Trivandrum for rectification, shall be noted in the defects sheets which shall be annexed to the report. Similarly any remarks for which no sufficient space in the form is available, shall be noted in the additional sheets with proper reference. The annexures referred to in items VI and XXI shall be in the form prescribed and shall be duly filled up and appended.
- 719.** Particulars regarding deficient levy of stamp and excess or short levy of fee on documents accepted for registration shall be included in part I-B under the heading “Defects in registers, etc.”
- 720. Part II:—** Part II of the Inspection Report shall be contain remarks on the following items:—
- (1) Attendance (2) Service books (3) Disbursements and liabilities (4) Surcharge duty (5) Register of documents pending transcription and work diary (6) Unclaimed documents (7) Documents discredited by courts (8) Memoranda and copies (9) Applications for transfer of revenue registry (10) Powers of attorney (11) Applications for general searches, single searches and copies (12) Petition register and attendance at private residence (13) Refunds (14) Correspondence (15) All other registers and files (16) Witnesses and general procedure (17) History of office (18) Defects in transcription which cannot be set aright at the time of inspection (19) Requirements of office (20) Certificate regarding handling of the records by the camp clerk.
- 721.** Generally, all items which can be disposed of by orders of the Registrar are included in this part. But if it is found that the omissions or irregularities, brought to light on any of the above items, are of a serious nature and deserve to be brought to the notice of the Inspector of Registration Officers (Headquarters) Trivandrum, such item shall be extracted and included in Part I for the orders of the Inspector of Registration Offices (Headquarters) Trivandrum. All the omissions and irregularities found in register book volumes shall be included under the heading “defects in transcription” etc. The remarks shall be added on the defects sheets and attached to the reports.
- 722.** Defects noted by the Registrar under each item shall be entered in column 2; Sub Registrar’s explanations and orders of the Registrars on them shall be entered in columns 3 and 4 respectively. Entries regarding rectification of errors shall be entered in the last column.
- 723.** Remarks if any, pertaining to any item other than those given in the headings of the Inspection Notes may also be appropriately entered in defect sheets of Parts 1 and 2 under suitable headings.
- 724. Part III:—** Results of examination of indexes contemplated in Order No.713(b) shall be dealt with in Part III. All the defects and omissions in indexes shall be entered in it. No other item need find a place in it. In column I shall be entered the index to which the defects relate. Column 2 shall contain the defects noted by the Registrar, column 3 and 4, the Sub Registrar’s explanation and the Registrar’s

orders respectively and column 5, the certificate of the Sub Registrar for having rectified the omission or defect.

- 725.** Clerical errors and minor mistakes that can be set right shall, wherever practicable, be rectified then and there and unless they are of frequent occurrence, they need not be noted in the report.
- 726.** The name of the officer responsible for the mistake or omission shall be entered in brackets against each remark.
- 727.** In his inspections and in compiling the reports relating thereto, the Registrar shall bear in mind that the aim of an inspection should be not only to critically examine the records and the work of the officers, but also to impart useful instructions to the officers concerned. Minor points shall not be given fictitious prominence.
- 728.** The Registrar shall not seek to obtain orders through the medium of an inspection report, about matters such as extension of a building, the sinking of a well, etc., since such procedure may delay the closing of the report. Reports on these points should be submitted separately to the Inspector General.
- 729.** The Registrar shall ensure at his inspections that all notices required to be exhibited in offices, appear on the notice slabs.
- 730.** The Registrar shall after obtaining the Sub Registrar's explanations, submit the Part I report to the Inspector General with his further remarks and return Parts II and III to the Sub Registrar with his final orders. The Part I report will be returned to the Registrar with the Inspector of Registration Offices (Headquarters) Trivandrum, which in turn, shall be forwarded to the Sub Registrar for further action.
- 731. (a)** The report shall be concise and unambiguous each remark constituting a separate paragraph.
- (b)** It shall be a mere record of facts and of errors and omissions and shall not be made the medium of discussion on matters on which differences of opinion or interpretation may exist. Questions of a controversial nature and those, upon which it is desirable to obtain definite orders for general guidance, shall be reported separately. If however on receipt of a Sub Registrar's explanation, it is found that any item included in Part II, raises a point for the Inspector of Registration Offices (Head Quarters) Trivandrum orders, the item shall be extracted and submitted in a separate communication, a note to that effect being entered against it in Part II.
- 732.** In cases of deficiency or excess in fee or deficiency in stamp duty, separate reports or remarks seeking orders shall be submitted invariably with the explanation of the officer concerned and extracts of the concerned document or application or other record, as the case may be, wherever necessary.
- 733.** Loss caused to Government by way of stamp duty or fee due to negligence or carelessness on the part of an officer is liable to be recovered from him as per provision in Rule 189 of the Registration Rules. It is therefore essential to determine whether a deficiency in fee or stamp duty is caused by carelessness or gross negligence on the part of an officer before recovery is ordered from him. For this purpose, details regarding the nature of the document, mode of assessments,

extent of the deficiency, etc., are to be furnished in full. The remarks of the Registrar shall be comprehensive enough to furnish all details regarding the points raised. The explanations furnished by the Sub Registrars should be analysed, discussed and reasons adduced whenever it is unacceptable, the nature of a document wherever necessary should invariably be established with citation and authority. The assessment should be brought out in passing orders regarding recovery.

- 734. Register of special recoveries:**— All recoveries ordered shall be entered by the Sub Registrar in the register of special recoveries (Form No.34).
- 735.** All further reports submitted to the Inspector of Registration Offices (Head Quarters) Trivandrum for orders on inspection reports shall be in defect sheets which should be submitted in triplicates. The Registrar shall submit them to the Inspector General of Registration in duplicate and the third copy shall be retained by him.
- 736. (a)** The notice made by the Registrar at the time of inspection shall be complete in themselves, so that when arranged they may serve as an office copy of the report in the Registrar's Office. The fair copy based on the draft-report thus prepared shall, except in special circumstances, be issued within seven days of completion of the inspection of the Sub Registry Office.
- (b)** The interval between the date of inspection of a sub-office and the date of submission of the report to the Inspector of Registration Office (HQ) Trivandrum, shall not exceed one month.
- 737.** In Order to provide for an efficient check in the Registrar's Office on the issue, the return by the Sub Registrars and the submission to the Inspector of Registration Offices (HQ) Trivandrum of the inspection reports, a register shall be opened in the Registrar's Office, in Form No.53 in which the names of all offices shall be entered in the order of inspections at the commencement of each year.
- 738. (a)** In the event of an explanation on any point being required from an officer other than the Sub Registrar then on duty, in an office inspected, the whole report shall not be forwarded to that officer, but the requisite extract shall be sent to him for resubmission with his explanations. The explanations with the name of the officer, shall be copied in the report in its proper place. The original of the extracts and the explanation of the officer received, shall be filed with the office copy of the report.
- (b)** If however in an inspection report, the majority of the remarks relate to an officer, who has since been transferred or promoted, the inspection report may be transmitted to him in original for recording his explanation, instead of sending voluminous extracts.
- 739.** The explanation of the Sub Registrar shall be concise and shall be written against the remarks.
- 740. (a)** Before submitting the report for the orders of the Inspector of Registration Offices (HQ) Trivandrum, the Registrar shall ensure that the Sub Registrar concerned, has furnished explanation on all items.



- (b) The Registrar shall indicate in each case, whether the Sub Registrar's explanation may, in this opinion, be accepted.
741. Whenever a reference is started or a separate report is submitted by a Registrar or a Sub Registrar in regard to a question arising from an inspection report, such reference or report shall commence by reproducing the Registrar's connected remarks, the Sub Registrar's explanation thereon and the orders of the Registrars and the Inspector of Registration Offices (HQ) Trivandrum on the explanation.
742. **General:**— The Registrar shall cause two copies of the inspection report (Parts I, II and III) to be typed and shall forward them within 7 days from the date of completion of the inspection, to the concerned Sub Registrar for explanation. The Sub Registrar shall re-submit them within three days with his explanations recorded in the relevant column of all the copies. On receipt of the same, the Registrar shall endorse his further remarks in part I and his final orders in parts II and III and submit both copies of part I to the Inspector of Registration Offices, Headquarters, Trivandrum while one copy of Part II and III of the Inspection Report shall be returned to the Sub Registrar. The Inspector of Registration Offices (Headquarters) Trivandrum will pass final orders on the various items on part I and transmit one copy of the report to the Registrar retaining the other copy in his Office.
743. When the inspection report with the final orders of the Inspector of Registration Offices (HQ) Trivandrum on Part I, is received back by the Registrar, he will not (sic) the relevant numbers of all remarks requiring attention of the Sub Registrar, such as rectification of defects, mistakes and omissions in the register prescribed in Order 737 and re-transmit the report to the Sub Registrar for further action.
744. If necessary, extracts from Parts I, II and III of undisposed items, shall be prepared in triplicate by the Sub Registrars and forwarded to the Registrar, who shall deal with it as in the case of original reports.
745. When action on all remarks has been completed and all items disposed of as directed in the orders in Parts I, II and III, the Sub Registrar shall submit a report to the Registrar to that effect, enumerating the items on which action has been taken and certified in the inspection report. The registrar shall check the report with the entries made in the register prescribed in Order 737, to ensure that no item has been missed and then submit his report to the Inspector of Registration Offices (HQ) Trivandrum seeking sanction to close the inspection report. After checking the items against the copy retained in his office, the Inspector General will accord sanction to close the report which shall be duly communicated by the Registrar to the Sub Registrar. Thereupon, the Sub Registrar shall close the inspection report quoting the orders of the Registrar.
746. **Reviews on Inspection Reports:**— The Inspector General shall issue a review annually on the inspection reports of the Registrars setting out the very important irregularities noticed in the course of the inspection and his instructions thereon. The object of the review is to focus attention on the more important items of mistakes, omissions and irregularities with a view to prevent their recurrence and to enable one to view to ensemble the work in all the offices.
747. **Rectification of omissions and defects:**— The main object of the inspection of a Sub Registry Office being to check and if possible, supply the omissions and correct the

defects in registers and other records, all remediable omissions shall be caused to be supplied by the Registrar on the spot wherever possible. The following are examples of omission of the kind:—

(1) Failure to enter readers or examiner's names in the Register books. (2) Omission to note return of documents. (3) Omission to enter number of documents on relevant pages. (4) Omission to initial scorings and interlineations in the Register Book by the Sub Registrar-in-charge at time of inspection. (5) A column left blank in indexes, etc.

**748. (a)** The omission to attest the scorings and interlineations in register entries shall be got supplied only if the officer responsible is in the same office. In all other cases, the defect shall be rectified by means of suitable foot-notes at the foot of the entries of the document. But in cases of omissions in authenticating entries in Register Books, the concerned officers unless they have retired or otherwise left service, shall be asked to supply the omission by going over to the office at their own expense.

**(b)** Omissions on the part of a clerk to attest in token of having copied, read or examined a deed copied in a register book is considered a serious one and it shall be supplied by the clerk concerned unless he has retired from or otherwise left service. No travelling allowance is permissible for journeys involved if any. The mode of rectifications of other defects appertaining to entries in register books, is shown in Appendix IX.

**(c)** The following is a list of some of the very serious irregularities. If any of these or similar lapses is detected, it shall be viewed seriously and dealt with under the Kerala Civil Service (Classification, Control and Appeal) Rules 1960.

- (i) Omission to authenticate an entry in register books.
- (ii) Omission on the part of a clerk to attest in token of having copied or read or examined an entry copied in a register book.
- (iii) Authenticating an entry without the signature of the copyist or reader or examiner.
- (iv) Omission to record admission of execution of any one executant.
- (v) Omission to obtain a witness or any of the details or signature of witness in case where the executant is not personally known to the Sub Registrar.
- (vi) Because of any procedure or because of an omission to adopt any the registration of a document is rendered null, void or invalid either partially or wholly.
- (vii) Volumes of book 1, 3 or 4 contain more pages or less pages than prescribed under the orders contained in this Manual.
- (viii) Failure to examine or failure to add the certificate of examination in completed volumes of Books 1, 2, 3, 4 Thump Impression Register etc. within the stipulated time.

**749. (a) *Inspection by Inspector of Registration Offices:***— The amalgamated Sub Registry Office shall be inspected by the concerned Inspector of Registration Offices once a

year. This inspection shall be in accordance with the inspection of the District Registrar regarding the scope, nature and period of inspection. Since the indexes of all documents registered in the amalgamated Sub Registry Office are examined by the District Registrar in detail, the Inspector of Registration Offices need not conduct index examination.

(b) The inspector of Registration Offices may take one clerk with him on the tours to assist him in the inspection work.

(c) The duration of the surprise inspection may be not more than one day for each office and the inspection may be completed by the close of the day in the case of those commenced in the forenoon.

(d) Monthly tour programmes of Inspector of Registration offices, shall be prepared in the last week of the previous month and submitted to Inspector General of Registration in a separate cover in the personal address of the Personal Assistant. This tour programme shall be seen only by the Inspector General of Registration and kept in the personal custody of Personal Assistant till the period covered by the Programme is over.

(e) The inspector of Registration Offices will follow the direction issued from time to time, by Inspector General of Registration, with regard to the procedure to be adopted for surprise inspection, the preparation of its report and the procedure for its closure.

**750. *Inspection by the Inspector General of Registration:***— Every Sub Registry Office in the State shall be inspected by the Inspector General at least once in five years and every District Office once in each year.

**751.** He may ordinarily take two clerks with him to help in his work of inspection.

**752.** The Inspection notes of the Inspector General of Registration shall be forwarded to the Registering Officers concerned through the respective Registrars, a duplicate copy being furnished for the record of the Registrar.

**753.** The officers shall comply with the direction given and submit triplicate extracts of their explanations through the Registrar concerned. The Registrar shall retain one copy of such extracts for his office record and submit the other two copies with his further remarks for the orders Of the Inspector-General. The orders passed by the Inspector General shall be communicated to the Registering Officers through the Registrars and the files shall be closed in conformity with the directions under Order 745.

**754.** A register of Inspection Notes of the Inspector General shall be maintained in each Registrar's Office.

**755.** Copies of documents wherever needed, shall form an **inclosure** to the questions connected with fee, etc., in the Inspection Notes whether the Inspector General or Inspector of Registration Offices **of** the Registrar.

**756.** The tendency **of** postpone the annual inspection in the earlier part of the year and to crowd them at the **fage** end of the year should be strictly guarded against.

- 757. (a) Enquiries:—** The Kerala Civil Service (Classification, Control and Appeal) Rules, 1960 shall apply to the officers of the department in the matter and procedure as regards the conduct of enquiries in cases of misconduct etc.
- (b)** The 'X' Branch of the Police Department will ordinarily take up investigation of cases of allegations against officers who draw a pay of Rs. 125 and above, cases of allegations against the other class of officers i.e., those drawing pay less than Rs.125 will be enquired in to by the department. However when allegations are made jointly against an officer drawing a pay of Rs. 125 or more and another with lesser pay the 'X' Branch will investigate allegations against both. In regard to officers receiving less than Rs. 125 also the 'X' Branch will conduct the investigation, if the Government so order in specific case.
- 758.** It rests with the Registrar or Inspector of Registration Offices to ascertain whether there is any truth in an anonymous petition or in a petition which is obviously pseudonymous.
- 759.** When a petition is found to be genuine so far as the signatories are concerned, the Inspector of Registration Offices or the Registrar shall obtain the previous sanction of the Inspector General for conducting a formal enquiry submitting a concise report regarding the facts of the case. No formal enquiry shall be under taken without the previous sanction of the Inspector General.
- 760.** A Sub Registrar shall not be required to report officially on an anonymous petition or a petition which is obviously pseudonymous.
- 761.** The examination of charges against public servants shall be careful and close. It is indispensable that the investigation into alleged offences should be conducted without haste and that every chance should be offered to an accused for proving his innocence. The enquiry officer is generally bound to examine all persons who can throw light on the facts connected with the charge.
- 762.** The accused officer in the case of personal enquiry during the whole enquiry and be given an opportunity to cross-examine witnesses examined.
- 763.** The officer charged should also be allowed reasonable time to submit his statements. All depositions shall be taken down by enquiring officer and read out to the deponent who shall sign the same as being correct.
- 764. Appeals:—** A subordinate officer who may wish to appeal to higher authority, shall submit his appeal through his immediate superior, within the prescribed time-limit.

## CHAPTER XXVII

**Prosecution**

- 765.** A Sub Registrar may with the previous sanction of the General of Registration, Rule 214 of the Registration Rules lay a criminal complaint against a person who in the course of the proceedings relating to the registration of a document, intentionally makes a false statement. When however, execution is denied, he shall not proceed to take evidence regarding execution and prosecute the executant for making a false statement, but shall merely refuse registration leaving the party concerned to apply to the Registrar under section 73 of the Indian Registration Act for an enquiry into the fact of execution.
- 766.** A refusal to sign a registration endorsement or a statement made to a Registering Officer does not constitute an offence under the Indian Penal Code or under the Indian Registration Act. A Registering Officer is no more competent to require a party to sign than he is to require him to register; his duty is merely to carry out the voluntary wishes of parties who appear before him.
- 767. (a)** When a formal complaint is made to a Registering Officer, that the offence of false personation has been committed in respect of a document registered by him or in his office, he is bound to satisfy himself immediately as to the truth of the complaint and the simplest method of doing so is by a comparison of the thumb impressions. If he finds that the complaint is well founded, he shall take immediate action to prosecute the offenders. While it is desirable that ignorant and innocent persons are not unnecessarily harassed, care should be taken to see that the provision of the law are not neglected. Utmost care should be taken to ensure that the act of "registration" does not, become "discredited".
- (b)** Depositions recorded in false personation cases shall be taken on loose sheets and preserved with the connected records of the case. They need not be copied in deposition books.
- (c)** The Officers of the department should bestow proper and careful attention on the details of the case before drawing up the order sanctioning prosecution.
- (d)** Orders sanctioning prosecution should set forth briefly in the preamble the facts and circumstances of the case. The grounds on which the sanctioning authority has come to the conclusion that prima facie case of an offence has been made out should briefly set forth.
- (e)** The order should clearly state the statutory authorities under which prosecution is sanctioned, the nature of offences committed, and the section of the act under which the facts in question constitute the offences against each person.
- 768.** Registering Officers shall bring to the notice of the Inspector General of Registration any prosecution under the Indian Registration Act instituted by private parties as soon as it is officially known.
- 769.** Permission under section 83 of the Indian Registration Act is not a preliminary requisite for the institution by a private person of proceedings for an offence under section 82 of the Act.

770. The result of every prosecution shall be reported by the Registrar to the Inspector General as soon as it is known, the report being accompanied by a copy of the judgment. The copies of judgments whether they are received from courts or are copies made departmentally, shall be preserved in the file of appeal orders and judgments of the office where the offence was committed.
771. Whenever a registered document is declared by a competent court to be a forgery or to have been registered on an admission of execution, made by a person who falsely personated the executant, the Registrar shall obtain and submit to the Inspector General, a copy of the judgment of the Court.
772. (a) Each Register shall be submitted to the Inspector General on the 1st January each year. a list of convictions for offences under the Registration Act committed in his district during the previous calendar year.
- (b) The investigating officers and other officers connected with the case of false personation shall after proper identity be allowed to have access to the register books or thumb impression registers in the office and in the presence of the registering officer with liberty to take photo copies of the required finger impression and summons for the production of the thumb impression register before the court, when the case comes up for trial.
773. *Prosecution under the Stamp Act:*— In cases of suspected under valuation of documents or of any of the other offences under section 62 of the Kerala Stamp Act. the following instructions shall be followed:-
- (a) When a document presented for registration before a Sub Registrar appears prima facie to be undervalued or when it appears that all the facts and circumstances relating to the chargeability of the instrument with stamp duty, are not fully and truly set forth therein, the Registering Officer shall refer to entries of previously registered documents affecting the same property and may, if necessary, record statements from all the patties connected with the document, viz., executants, claimants, document-writer, scribe and identifying witnesses, with a view to elicit information as to the real value of the property or the amount of consideration on which the stamp duty payable on the document depends.
- (b) If he finds that there is a substantial difference between the value or consideration expressed in the document presented for registration and that expressed in previously registered documents, the reasons for such disparity shall be ascertained from the parties during their examination and any evidence adduced by them, to show that the value or consideration is true, shall be given due consideration.
- (c) If after a document has been registered (i) a Sub Registrar receives from a party a petition alleging that the offence of undervaluation, has been committed in respect of that document or (ii) a petition containing similar allegations is forwarded by a Registrar to the Sub Registrar, he shall proceed as laid down in Instructions contained in clauses (a), (b) and (d) with the only difference that in these cases he has to issue notices to the several parties mentioned in clause (a) for their appearance. A notice shall also be issued to the petitioner calling upon him to appear on a specified date and substantiate his allegations with necessary oral and documentary evidence.

- (d)** If from the examination of the parties and from all facts and evidence available, the Sub Registrar is satisfied that a case of undervaluation with an intention to defraud the Government is made out, he shall register the document and submit to the Registrar a detailed report setting out all the facts and circumstances of the case with his views on the question of whether a prosecution should be sanctioned. The original document, copies of the statements recorded from the parties, copies of previously registered documents and all other papers having a bearing on the subject shall accompany the report. If he finds that no case of undervaluation is made out, he shall record the petition if any, in case it is addressed to him and inform the petitioner of the fact. In case, the petition is one received from the Registrar, he shall submit the petition to the Registrar with his report. In submitting a report of undervaluation, Sub Registrar shall bear in mind that a prosecution will not stand unless “intent to defraud the Government” is proved. Accordingly any such report should be based on sufficient evidence which can prove the intent to defraud the Government. But if the Sub Registrar finds that a case of undervaluation has been made out but with no intention to defraud the Government he shall if no report has already been made, forthwith report the matter to the Collector, as provided in section 45(A) of the Kerala Stamp Act.
- (e)** Every Sub Registrar shall maintain a register in Form No.83 in which every case of undervaluation reported to the Registrar shall be entered.
- (f)** A Registrar shall on receipt of a petition alleging undervaluation in respect of a document, forward it to the Sub Registrar concerned for enquiry and remarks.
- (g)** On receipt of a report from a Sub Registrar, the Registrar shall carefully examine all the records of the case. He may also obtain the opinion of the Revenue, Municipal or Local Board Authorities regarding the value of the property forming the subject-matter of the transaction.
- (h)** If the Registrar is of opinion that there is no substance in the petition, the petition shall be recorded. A final order to the effect that the petition has been recorded shall be communicated to the petitioner, if he has taken any steps to prove the allegations in his petition. If on the other hand, the Registrar is satisfied that there is a deliberate intent to defraud the Government and that the material on hand will be sufficient to secure a conviction, he shall make a report to the collector, requesting for sanction for the prosecution.
- (i)** When the prosecution is sanctioned by the Collector, the Registrars and Sub Registrars shall give necessary instructions to the Assistant Public Prosecutor, for the proper conduct of the case. The result of the case should be reported to the Inspector General of Registration in due course.
- (j)** The Registrar shall on the first January every year submit a statement to the Inspector General of Registration showing a list of prosecutions conducted in his district for offences under the Kerala Stamp Act during the previous calendar year.
- (k)** A Register incorporating the following particular shall be maintained by each Registrar in respect of offence committed under the Kerala Stamp Act:—

- (i) Serial number.
- (ii) No of document and name of the office to which it relates.
- (iii) Nature and value of the transaction.
- (iv) Nature of Particulars of the offences committed.
- (v) Date on which prosecution was instituted.
- (vi) Result of prosecution and the names of the offenders punished and the punishment imposed.
- (vii) Remarks.



## CHAPTER XXVIII

**Buildings**

- 774. General:**— The Offices of Registrars and of Sub Registrars are constructed in accordance with type designs prescribed by Government.
- 775.** The head of the office is responsible for the general conditions of the building. He shall pay particular attention in the matter of keeping the office building and premises neat and tidy.
- 776.** No Registering Officer or staff is allowed to use any portion of an office building for his residence or for keeping his private property.
- 777. (a)** Registrars shall inspect all the buildings in their districts at the time of the inspection of the offices and add a paragraph regarding their condition in Part I of their inspection reports.
- (b)** If for any reason, it is considered that investigation by an engineer is necessary, the Registrar shall after obtaining the permission of the Inspector General, move the Executive Engineer of the Public Works Department to depute a suitable officer to inspect the buildings.
- 778.** The creation of any adverse easementary rights prejudicial to the enjoyment of the office building, shall be watched for and a report submitted to the proper authority whenever any such event occurs.
- 779.** The expenditure on ordinary repairs is normally intended to keep the buildings in efficient condition, so as to necessitate a minimum expenditure on special repairs. The timely closing of a small leak or plastering of patches on the walls or the flooring have to be attended to under ordinary repairs. Neglect of these will help the rapid deterioration of the building necessitating heavy expenditure under special repairs.
- 780.** The annual maintenance work shall regularly be attended to as far as possible, subject to availability of funds and works of petty construction and repairs carried out in the case of Government buildings so as to prevent damages and ensure safety of such building.
- 781.** In the case of private buildings hired for use, the owner shall be required to effect such maintenance work in time.
- 782.** Each Sub Registrar shall submit through the Registrar to the Inspector General of Registration by the middle of May each year, separate intents one for petty construction and repairs to building and another for purchase and repair of furniture. The Registrar shall check and submit them as also the estimates connected with his own office without delay.
- 783.** Immediately the estimates are sanctioned, the work shall be carried out as directed by the Inspector General of Registration. In cases where the work is given on tender, the acceptance of a quotation will test with the Inspector General of Registration. When the work is finished, a report accompanied by a completion certificate as required by the Account Code shall be forwarded.

**784.** Proposal for the extension of an existing building shall be accompanied by a sketch and a site-plan, the former showing the dimensions of the rooms and the position of the doors and windows and the number and position of the almirahs and record-racks, the proposed extension being shown in red.

**785. Compound Walls:—**

(a) A compound wall in brick and mortar shall not except in special cases, be included in the estimate for a Sub Registry Office, or be proposed for construction as a new work as the outlay is generally out of all proportion to the cost of the building itself. A mud-wall with a tile coping, a gateway and gates and a slopping ditch on the outer side of the wall will suffice in many stations where the rainfall is not excessive. In places where the rainfall is heavy, a hedge such as an aloe hedge or a fencing of plain or barbed wire can take the place of the mud-wall.

(b) Proposals for the erection of compound wall shall state:

- (1) The area proposed to be enclosed and the perimeter of the wall; and
- (2) Whether there are any other public offices in the vicinity and if there are, whether those offices have a compound wall either separate or in common with the registration Office or whether there are proposals in contemplation for erecting compound walls for these offices.

**786. Party Shed:—** Reports for the construction of party sheds shall contain information on the points mentioned below:—

- (1) The average number of parties resorting to the office daily during the season of heavy registrations and the largest number that attend on any single day;
- (2) The area of the verandah and the direction which the office faces;
- (3) The existence of shady trees in the compound or close to the office and of other places of shelter;
- (4) Whether there is space in the office-compound or any Government land next to the office for the erection of a shed or whether private land will have to be acquired and if so, the approximate cost;
- (5) A sketch showing the position of the Registration Office and of other offices in the vicinity and of the proposed site; and
- (6) In cases in which the office is in the neighbourhood of another public office, whether parties' shed is attached to the latter and if so, the reason for a separate shed for the Registration Office.

**787. Urinal:—**

(i) The department does not undertake to provide a latrine or urinal for the registering public but only for the members of the office establishment. When an application for the construction of a urinal or latrine is made, it shall be clearly stated whether there is urinal or latrine in made, it shall be clearly stated whether there is urinal or latrine nearby attached to another office and why it cannot be used. Arrangements for conservancy and annual expenditure on that score shall also be embodied in the report.

(ii) Sanction for urinals in offices with lady officers or subordinates shall however, be made by the Inspector General as a temporary measure.

**788. Wells:**— Applications for a well shall indicate:—

(i) Whether there is near at hand any public or private well to which access can be had and if there is, the distance also whether there are any water courses near the office and the distance; and

(ii) The source from which water is obtained for filling the fire-buckets.

**789. Gate posts as sign-boards:**— The gate-posts or gate-pillars where they exist frequently admit of the name of the office and the functions of the Registering Officer being inscribed on them, obviating the use of separate sign-boards. Registrars, shall, whenever the Public Works Department carry out repairs to buildings which lend themselves to such an arrangement, suggest the introduction of stone slabs into the gate-pillars, for the purpose.

**790. Fire Buckets:**—

(a) Fire buckets shall be provided for each Registration Office, the number being fixed with reference to the size of the building which in no case shall exceed six. These shall be painted red from time to time.

(b) In the case of building for which an adequate supply of water is not available within a convenient distance, one-third of the number of the buckets shall be filled with sand or dry earth and the remainder with water to the extent of three-fourths.

(c) The use of kerosene and gas or unprotected lights of any form in the record room is prohibited.

**791. Plans:**— When examining plans received from the Public Works Department, the undermentioned instructions shall borne in mind.

(i) Record rooms should have nothing inflammable in their construction i.e., roof-tresses and framing and the record racks should be of iron.

(ii) The window-frames should be provided with  $\frac{3}{4}$  inch iron bars.

(iii) The windows of office rooms should be provided with glazed as well as panelled shutters.

(iv) The windows of record rooms should be provided with expanded metal of close meshes and sun-shades, the latter being dispensed within the case of the rear walls.

(v) The doors should be provided with strong bolts, the locks of the several doors of different patterns and not such as can be opened with one and the same key. Standard locks of good quality shall alone be used for the door of the office-room.

(vi) A wooden railing should be provided for the dias of the Registering Officer wherever possible.

(vii) Wire fencing when provided, may be of either plain or barbed wire.

(viii) For all Government buildings other than official residences padlocks, which are not fixtures, are supplied by the Department occupying the building.

- (ix) Plans received from the Public Works Department shall be kept and repacked in the same way as when received.
792. Registrars shall scrutinize the detailed plans and estimates very closely and thoroughly before they are submitted for the Inspector General's countersignature as alterations and additions after the acceptance of the detailed plans and estimates lead to difficulties.
793. **Correspondence with the Public Works Department:**— Sub Registrars shall not correspond with the officers of the Public Works Department as regards buildings under construction. Any representation they may have to make, shall be submitted to the Registrar.
794. A Registrar shall obtain the previous permission of the Inspector General, before addressing the Public Works Department regarding original works including petty works or repairs to buildings which involve structural alterations or repairs to roofs which are not confined to trifling items.
795. Such previous permission is however, not required for petty and annual repairs, costing not more than Rs.100 which requires professional skill and therefore, have to be executed by the Public Works Department,
796. On receipt of an estimate from the Public Works Department, the Registrar shall, after satisfying himself that the estimate provides for all requirements, submit estimates for works to the Inspector General for countersignature and transmission to the Public Works Department for execution.
797. Works of petty construction and repair to be executed departmentally shall be undertaken as funds permit. Registrars shall, for this purpose, allot funds for the execution of the works in the relative order of their urgency at the beginning of each official year, reserving a portion of the grant for unforeseen contingencies. Immediately, the grants are distributed, the work should be commenced and carried out expeditiously.
798. The instructions in the Kerala financial and Account Code should be followed in the matter of procedure relating to the execution of works assigned to Civil Departments.
799. As soon as a work is completed, a completion report shall be submitted by the Sub Registrar to the Registrar. It should show the name of the work, the sanction number and date, the amount of sanction and actual expenditure incurred. In any case in which the work differs from the estimate, the orders of the Registrar shall be obtained before final payment is made to the contractor. As regards works completed in accordance with the sanction, the completion report shall be forwarded by the Registrar direct the Accountant General, Irrespective of the amount of the estimate, while in respect of works, the actual expenditure on which is in excess of the sanctioned estimate the completion report shall be forwarded through the sanctioning authority, the excess expenditure being explained in the completion report, the sanction of the authority competent to incur the total expenditure being recorded therein. Details regarding the amount, the date and place of encashment of the contingent till relating to the completion report shall be entered in it.

- 800.** Every important work of repair or improvement, whether executed departmentally or through the Public Works Departments, shall be entered in statement 2 of the history of Office.
- 801. *Compound:***— Extracts from G.O.M.S.No.1012, dated 7<sup>th</sup> December 1960 is added below regarding leasing of land and disposal of live and dead trees on office premises.
- “(1) The heads of departments are empowered to sanction and confirm auction sale of fallen and dead trees standing on lands under their control and to credit the sale proceeds to the departments concerned.
- (2) Heads of departments and offices are empowered to dispose of in auction live trees standing on office premises under their control, the existence of which in the premises, will endanger life or will be dangerous to the building if they fall unexpectedly due to wind or rain and to credit the sale proceeds to the departments concerned.
- (3) In future when transfer of land from one department to another is ordered, the trees standing thereon will also be transferred to the transferee department. The heads of departments are requested to bear this in mind, when proposals for the transfer of Government lands are submitted to Government.
- (4) In the case of lands already transferred to departments, but the trees standing thereon, have been leased on Kuthakapattom by the Revenue Department, action shall be taken to transfer the trees also to the departments concerned. The head of departments will take immediate action in the matter.
- (5) The trees standing on Government land will be given on Kuthakapattom by the department, which has control of the land under Rule 30(b) of the Kuthakapattom Rules of 1947 in cases, the trees standing thereon, have also been transferred to that department and in other cases, after the trees are transferred to that department.”
- 802.** Leasing out the usufructs of trees in the office compound and the compound for cultivation is allowed on an yearly basis. Due sanction shall be sought for before the close of the third quarter of the financial year and agreements got executed before the close of that year. The details regarding the lease shall be entered in the Kuthakapattom Register to be maintained in Form No.55. The leasing out of an office compound within an area of fifty cents shall not be permitted.
- 803. *Rules regarding the lease of land for cultivation are enjoined below:***—
- (1) Compounds of public offices or institutions may be leased out on Kuthakapattom lease subject to such conditions as may be prescribed by Government from time to time.
- (2) The leases shall be for one year subject to renewal year after year.
- (3) The leases shall be granted by public auction only, except with the special sanction of Government.
- (4) It shall be competent to the head of the office or the institution to sanction the lease.

- (5) The officer granting the lease shall have power to terminate it at any time.
  - (6) The lessee shall remit the full amount of the auction in advance at the time of auction and enter into a formal agreement agreeing to abide by the rules in force.
  - (7) The lessee shall keep the premises properly enclosed. He shall also keep the premises neat and tidy at his own cost.
  - (8) He shall not cut the trees or the branches of trees standing within the leasehold, nor commit waste in any way on the land. If any loss is caused to Government on account of his act or negligence, he shall be liable to pay compensation for such loss.
  - (9) The lessee shall see that no disturbance of any kind is caused to the working of the office of the institution.
  - (10) All improvements to the land by way of planting, manuring etc., shall be done at the cost of the lessee and the lessee shall have no claim for compensation on termination of the lease.
  - (11) On termination of the lease within the period originally fixed or otherwise the lessee shall vacate the land unconditionally without claiming any compensation. He shall leave the land in its original condition.
  - (12) Any amount due from the lessee on account of rent or otherwise, shall be recoverable from him as arrears of public revenue under the provisions of the Revenue Recovery Act.
  - (13) The Kuthakapattom Rules in force from time to time shall apply as far as possible to these leases.
- 804.** The agreement referred to in Rule 6 above shall be registered at the expense of the lessee.
- 805.** The use of any Government building for holding public meetings of a political character is strictly prohibited. Severe disciplinary action will be taken against officers in charge of the buildings who permit the use of such buildings for such public meetings (G.O.No.2762/60/PD., dated 12<sup>th</sup> January 1960).
- 806. *Rented Buildings:***— The rent for a private building hired for the use of a Government department is disbursed by the department concerned and the responsibility for giving timely notice to the landlord that the building will not be required for Government purposes, after a specified period, rests with the chief departmental officer, in the district. But such notices shall be issued only under directions from the heads of departments.
- 807.** Rents should invariably be paid on the first working day after a month's accumulation. Registering officers should take timely action so that the rent is paid on the due dates.
- 808.** The fee for registration of lease deeds in respect of private buildings acquired for use as Registration Offices, shall be paid by the house-owner. Registrars while negotiating for leases shall arrange for the acceptance by the lessor of this condition.
- 809.** The lease deeds shall be drawn up in the prescribed form (Form No.56) and they shall be registered immediately after the instrument is complete in all respects.

- 810.** To renew a lease, Registrars should commence negotiations with the owners, two months before the actual expiration of the term of the existing lease and issue a registered notice whenever necessary, asking the owner to renew the lease for a further term on the same rent conditions in accordance with the terms of the original lease deed.
- 811.** The current and the immediately preceding lease deeds shall be kept in the iron safe and the old lease deeds shall be returned to the landlords and their acknowledgement obtained therefor. If the landlords do not want the old lease deeds, they shall be kept with the correspondence relating to the renting of buildings and destroyed after the prescribed period of preservation if not claimed by the landlords in the meantime.
- 812.** In cases where a private building is proposed to be taken on lease for use as Registration Office, the opinion of the Executive Engineer shall be obtained as to the reasonableness of the rent demanded.
- 813.** A certificate from the Executive Engineer or Rent Controller that a suitable Government building is not available for the purpose, shall also be obtained.
- 814.** The certificate of reasonableness of rent shall be issued by the Executive Engineers, subject to orders passed by the Rent Control Courts, in cases where the owner of the building is not agreeable to accept the rent fixed by the Executive Engineers (G.O.MS. No.430/59/F1n., dated 20<sup>th</sup> August 1959).
- 815.** No certificate of reasonableness of rent from the Public Works Department or Rent Controller is necessary, if the rent does not exceed Rs.10 per mensem; provided that the head of the department certifies that the rent is reasonable.
- 816.** No annual renewal certificate of rent need be insisted on, for the continued occupation of the same building by the same department, at the same or lower rate of rent, but where there is no reduction of rent, the heads of departments should record a certificate to this effect that there has been no general reduction in rent values of buildings in the locality. This certificate should be attached to the first bill for rent after the expiry of the period of three years. (Ref. G.O.Rt.No.536/PW., dated 22<sup>nd</sup> March 1960 has cancelled G.O.Rt.No.1520/PW., dated 8<sup>th</sup> June 1959 regarding necessity for annual rent certificate and has declared G.O.(P)400/58. dated 31<sup>st</sup> March 1958 to stand unaffected).
- 817.** When a sum to be paid for supplies, services and contingencies exceed Rs.50 in a particular case, a separate contingent bill shall be prepared and endorsed for payment to the party concerned. All drawing officers shall strictly follow the instructions contained in G.O.(P)422/58/Fin., dated 13<sup>th</sup> November 1958 in the matter. In other case where the amount is below Rs.50 and where disbursement to parties are necessary after encashment, proper stamped receipts shall be obtained duly attested by an independent witness who is not an officer subordinate to the disbursing officer.
- 818.** In contingent bills endorsed in favour of parties an intimation slip shall be attached to it for purposes of intimating the drawing officers, the date of payment of the bills.
- 819.** The procedure of payment by endorsing contingent bills is not admissible in case of payments to be made outside the State.

820. No payment shall also be endorsed in favour of a treasury other than that with which the drawing officer has transactions.
821. (a) *Guarding of Office:*— A Registration Office shall not be left unguarded at any time. The duty shall be entrusted to peons by turns. The peon on duty can leave the duty, post, only when relieved by the other peon.
- (b) The peon detailed for night duty is responsible for fastening, after the day's work is over, the doors of the windows of the office room to which he has access.
822. Every Registering Officer-in-charge of an office is required to ascertain personally or otherwise from time to time, whether the peon detailed for the duty of guarding the office at nights, is actually present in the office. A record of such visits made by the Registering Officer shall be entered on the attendance register.
823. Registrars shall, during their inspection of Sub-Registry Offices, verify whether the instructions in respect of guarding of offices are strictly observed.



## CHAPTER XXIX

**Stationery, Books and Forms**

- 824.** Strict economy shall be exercised in the issue and use of all articles of stationery and forms.
- 825.** Every Sub Registrar shall submit to the Registrar to whom he is subordinate, before the end of April every year an indent in duplicate for such books, forms and stationery as may be required for consumption during the next official year. The indent shall be prepared in Form No.85.
- 826.** The requirements of each office for the whole ensuing year shall be determined at first by the Sub Registrars and Registrars on the basis of previous consumption. The indents shall be carefully prepared and shall include as accurately as possible, the full quantity of books, forms and stationery required for the year up to the time of the next annual supply.
- 827.** The Registrar shall consolidate those indents and submit to the Inspector General of Registration, a consolidated indent pertaining to their respective districts along with those of their own offices before the end of May each year.
- 828.** After due scrutiny in the office of the inspector General of Registration, they shall be forwarded to the controller of stationery and Superintendent of Government Presses before the end of June with due recommendation as to the quantity required by each Registrar. Any alterations made in the indent as regards the quantity recommended, will be duly intimated to the concerned registrar. The consolidated indents submitted by Registrars shall be in the common forms prescribed.
- 829.** The Stationery, books and forms intended for will be supplied to the respective Registrars by the Controller of Stationery and the Superintendent of Government Presses either direct or through the Inspector General of Registration.
- 830.** The Registrars shall on receipt of the articles distribute them to the Sub Registrar subordinate to them.
- 831.** The articles of stationery and forms shall be sent to the Sub Registrars either through peons of the Sub Registry Offices or through Railway or State Transport Parcel Agencies, whichever is cheap and convenient.
- 832.** (1) Separate stock books shall be maintained for each of the following in all Sub Registrar's Offices and in all District Registrar's Offices.
- (a) Stationery.
  - (b) Common forms and Financial, Treasury and Accounts Code forms.
  - (c) Books and forms under the Registration Act, rules and orders thereunder.
  - (d) Books and forms under the Kerala Chitties Act, and the Special Marriage Act.
- (2) The receipt and issue of each kind of form or stationery shall be entered in the stock books then and there.

- 833.** When any book, form or article of stationery is issued from the stock, the issue posted in the stock book shall be initialled by the recipient.
- 834. (a)** The Registrar in a Registrar's Office and Sub Registrar in a Sub Registry Office, shall examine the stock book of stationery and forms and verify the balance in January and July of every year and also on every occasion of a transfer of charge other than on casual leave. A certificate of such verification shall be submitted by Sub Registrars to Registrars and to the Inspector General by the Registrars.
- (b)** The certificate referred to in Order 834(a) shall be in the following form.
- I hereby certify—
- (i) that each and every item of stationery received during the half year has been entered in the stock book.
  - (ii) that the stock actually agrees with the quantity shown as balance in the stock book.
  - (iii) that every issue has been acknowledged by the recipient in the stock book and has been made only on demand.
  - (iv) that all balances shown in old stock books have been correctly brought forward in the new stock book.
  - (v) that no article liable for deterioration have been kept in stock for long periods without issue.
- (c)** Registrars shall forward to the Inspector General of Registration a certificate to the effect that they have obtained the certificates prescribed in order 834(a) from all the Sub Registrars of his district.
- 835.** The Registrar will be held responsible for the due submission of indents for stationery, books and forms in his district. During inspections, he shall scrutinise the stock in a sub-office in order to ensure that there is no overstocking or deficiency and shall also examine the stock books to see whether they are maintained in order.
- 836.** In each Registrar's Office, two separate stock books besides the one referred to in Order 832(a) above, one for stationery and another for forms shall be maintained showing the receipt and distribution of each article received and distributed to Sub Registry Offices.
- 837.** On receipt of a supply of books and forms, the Registering Officer shall check them with the indents. A report shall be sent to the supplying officer, stating the result of each such check.
- 838.** Any register found damaged on check shall be put aside with a memorandum attached to it detailing the defect noticed. A report requiring directions for the use of such a volume shall be sent to the Registrar and his instructions to complete, correct or replace the book carried out. To ensure the fitness of a register book volume, the copying clerk shall once again examine the pages before commencing the actual use of the volume.
- 839.** In the case of a book or register which contains more than the prescribed number of pages, the Registrar may direct that the extra pages shall be left blank and the book or register used. On receipt of such a direction, the Registering Officer shall

add a note on the front fly-leaf that the extra pages will not be utilised for copying or obtaining thumb impressions and that the book or register as the case may be, is brought into use under the Registrar's order, the number and date being quoted and he shall write across the pages which are not to be utilised "not to be utilized".

- 840.** Register Books which contain less than the prescribed pages shall not be brought into use; but a thumb impression register which holds less than the prescribed pages shall be brought into use under the orders of the registrar, a certificate signed by the registering officer being added on the fly-leaf directing the use of the book.
- 841.** The memorandum in the case of a book or register ordered to be used after due correction shall be removed and destroyed after the rectifications have been embodied.
- 842. (a)** If during the examination of a register book any part of the surface of a page is found to be scratched or damaged, the portion shall be enclosed in a rectangle thus  with the initials of the Registering Officer at each corner and shall not be utilised for transcription. The existence of such a defect of this nature need not be reported to the Registrar, but shall be included among the defects specified in the certificate prescribed by clause (c) infra together with a note to the effect that the space has been enclosed by a rectangle.

**(b)** The same course shall be followed when scratches or damages are noted on blank pages after the first examination and while the volume is in use, the defect in these cases being noted below the certificate prescribed by Order (c) infra.

**(c)** When a register book or a thumb impression register is fit for use either because the examination has disclosed no defects or because the defects noticed, have been rectified, a certificate in the form given below, shall be added by the Registering Officer on the back of the last fly-leaf.

'Certified that this register/file-book has been examined by me and that it contains no/the following defects'.

(a)

(b)

(c)

Of these defects those shown under (a) or (b) or (c), etc., have been rectified under the orders of the Registrar No. .... dated .....

**NOTE:—** Petty defects such as the soiling or creasing of a page need not be noted,

- 843. (a)** Register books containing defects in page numbers shall be placed before the Registrar at the time of his inspection and the rectification of the incorrect, inverted or blurred numbers shall be carried out by him, in manuscript and initialled and dated by him, the fact of correction being noted on the fly-leaf by the Registrar himself.

**(b)** Defects affecting page numbers discovered on the 1<sup>st</sup> examination of the register book shall, however find a place in the Certificate referred to in Order 842(c).

- 844.** The bound books of whatever category supplied and partly made use of in an office, shall, not be set aside at the year end whenever there are unused pages that can be used for the succeeding entries also. The entries in all such books excepting register books I to V shall be closed with a year end note, the succeeding second page being used for the entries of the new-year. Such note shall be signed and dated by the head of the office.
- 845.** The title page of all bound books shall hold a certificate as to the nature, number of pages and volume of the book concerned, such certificate being entered when the book is brought into use and signed with date by the head of the office.
- 846.** The office copies of returns for which printed forms have been prescribed shall be maintained on spare copies of the forms stitched together as a book.
- 847.** File books required for use in Registration Offices other than those supplied shall be made in the office which require them for which purpose brown cartridge paper required, may be included in the indents.
- 848.** Only the ink supplied shall be used for copying in register books. Particular care shall be taken to see that the ink used is of good quality which would not fade.
- 849.** When the opening of a new office is sanctioned, the requisite books, forms and stationery shall be supplied by the Registrar from the stock in his own office or in any other offices in the district and these shall be adjusted in the next annual indent.
- 850.** Packing cases, mats, coir, etc., used for transportation of articles of stationery and forms shall be disposed of by selling them in auction and crediting the sale proceeds to Government in Account B.
- 851.** The certificate contemplated by section 16(2) of the Indian Registration Act, regarding pages in register books and thumb impression registers shall be entered by the Registrars, as issuing officers before issue of the same to the Sub Registrars, This duty may be delegated to Sub Registrars in amalgamated offices or to the senior of them when there are more Sub Registrars than one whenever necessary. The Sub Registrars in such cases shall sign 'For Registrar'.

## CHAPTER XXX

**Furniture, locks, time-pieces, clocks and miscellaneous articles**

- 852.** In each Registration Office there shall be maintained a register of furniture in the common form prescribed in which shall be entered all the articles of furniture and stores supplied to the office.
- 853.** The entries in the Register shall be made immediately after an article is received, issued for repair or returned from repair and shall be attested by the Sub Registrar or Registrar.
- 854.** The articles entered in this Register shall be assigned a number. These numbers shall run consecutively with reference to each kind and class of article and shall be painted or marked on each article permanently and entered in the column 'serial number' of the Register.
- 855.** Articles of furniture and miscellaneous articles such as timepieces, clocks, etc., intended for supply to sub-offices shall not be brought to account in the inventory of furniture and stores of the Registrar's Office, but in a separate register made up of a few forms of the stock book with headings altered as in Form No.57. A page of this register shall be allotted for each class of articles and entries shall be made therein when an article is received either for repair or for supply and when it is issued or returned or otherwise disposed of. Before a Registrar proceeds on a tour of inspection he shall take relevant extracts from this register for the purpose of verification of the entries therein with the inventory of the office concerned.
- 856.** One complete page or half a page as is deemed necessary may be set apart in the register for the entry of each class of furniture or store.
- 857.** Every application for the repair of an article, such as a clock or time-piece, a lock or a rubber roller shall be accompanied by a report as to the period for which it has been out of order and by an extract from the register, showing the date of supply and the date, nature and cost of repairs already carried out.
- 858.** The Sub Registrar of the amalgamated office and every Sub Registrar in a Sub office or where there are more Sub Registrars than one, the senior Sub Registrar shall, on assuming charge of an office before submitting the report of transfer of charge, examine the register of furniture and stores. He shall enter and sign a certificate in the register in the following form, in token of his having checked the register with the furniture in the Office. 'Certified that the articles of furniture as per this register have been made over to me and that they are in good condition'.
- Discrepancies, damages or shortage noticed if any, shall be brought to the notice of the higher authorities. In such cases, the verification certificate may be modified suitably.
- 859.** Registrars shall check the inventory of furniture and stores during each inspection of a sub-office. The fact of having done so with the results thereof, shall be invariably noted in the inspection notes.

- 860.** Besides the examination contemplated in Order 858, all articles of furniture shall be verified with the register in April each year by the Sub Registrar in a sub-office and by the Registrar in a Registrar's Office. The instruction in Order 858 above regarding the certificate in the register and the report of discrepancies, etc., shall mutatis mutandis apply to this examination; the higher authority referred to therein being the Registrar in the case of a Sub-office, and the Inspector General in the case of Registrar's Office. A copy of the certificate shall be submitted on the 15<sup>th</sup> April by a Sub Registrar to the Registrar and by the latter as regards his own office to the Inspector General. The certificate submitted by the Registrar shall invariably be signed by the Registrar himself whether or not he remains at headquarters.
- 861.** Registrars shall arrange for the initial supply and repair of locks required by Sub Registrars in their district. They shall correspond direct with the Controller of Purchase regarding such supplies or with the Superintendent of Public Workshop or the Industrial Department or any other recognised dealers in locks as the case may be.
- 862. *Supply of furniture to the various Sub Registry Office:—***  
Early each financial year, Sub Registrars shall forward a list of furniture such as tables, chairs, almirahs, etc., if any required for use in their offices to the Registrars to whom they are subordinate. The Registrars shall, after due verification regarding the requirement, consolidate the lists and forward them to the Inspector General of Registration for sanction. The Inspector General of Registration will sanction the required furniture with due regard to the budget allotments for each year.
- 863.** Besides sanctioning the allotments, the Inspector General of Registration may authorise the Registrars to purchase the articles in strict conformity with the provisions in the Financial Code and supply them to the various Sub Registry Offices.
- 864.** The Inspector General of Registration is empowered to sanction purchase of furniture locally to the maximum limit prescribed in the Kerala Financial Code, subject to budget provision and also to the conditions that:—  
**(a)** no government agency is able to supply the required furniture in time and  
**(b)** the purchase is made after inviting competitive quotations.
- 865. *Seals and date-stamps:—***  
The seals to be used in Sub Registry Office shall be circular in shape and shall bear the emblem of the State in the centre with the words "The seal of the Sub Registrar of around the emblem. It shall be made of hard metal. The supply of these seals will be made by the Inspector General of Registration after obtaining them from the Controller of Stationery.
- 866.** Each Sub Registry Office will also be supplied with a date stamp with the name of the office. They may be either of metal or of rubber.
- 867.** When renewal of metal seals or date-stamp is necessitated by wear and tear fresh supply shall be obtained from the controller of Stationery through the Inspector General of Registration.

868. Whenever a seal or date-stamp of an office is replaced, the superseded seal shall be returned to the Inspector General of Registration through the Registrar.
869. ***Thumb Impression Slab and Rollers:—***  
The glass plates or metal plates for taking thumb impressions are fixed in wooden frames. The rubber roller and the slabs shall be kept scrupulously clear and free from dust, grit and hairs.
870. The metal plate shall be thoroughly cleaned each day, all particles of old ink being rubbed off.
871. The Registrar shall arrange for the first supply of metal badges for peons at the rate of one for each sanctioned post. The badges shall be obtained from the controller of Stationery through the Inspector General of Registration.
872. If the renewal of such badge is necessitated by avoidable causes or by carelessness, the cost shall be recovered from the person responsible.
873. ***Unserviceable stores and furniture:—***  
Articles which have become useless and which cannot be repaired and used, shall be auctioned and the sale proceeds credited to Government. A list of such articles to be auctioned, shall be placed before the Registrar at the time of his inspection for verification. The Sub Registrars shall seek sanction for auction from the Inspector General of Registration through the respective Registrars quoting orders passed by the Registrars after verification.
874. On obtaining orders from the Inspector General of Registration, the articles shall be auctioned after wide publicity. The auction list in duplicate shall be submitted to the Inspector General of Registration through the respective Registrars for approval.
875. The whole of the bid amount shall be immediately realised from the highest bidder and credited to the 'B' Account and remitted to the treasury under other receipts.
876. The auctioned articles shall be delivered to the bidder only after the auction is approved by the Inspector General of Registration.
877. In case the auction is not approved, the amount realised shall be refunded.
878. After the articles have been disposed of, a note of the fact stating how the condemned articles were actually disposed of shall be made against the entry of each article concerned in the furniture Register quoting the relevant orders.
879. Articles which have become useless but which can be used after repairs, shall be got repaired and used. Estimates for repairs from not less than three persons shall be obtained and submitted for sanction. In forwarding such estimates received from Sub Registrars, the Registrars shall certify to the reasonableness of the charges for the repairs. The repairs shall be got done after sanction being obtained from the Inspector General.
880. The Inspector General of Registration is authorised to sanction the disposal of all unserviceable or surplus tools and plants, office furniture, materials at site of work, dismantled materials, etc., as the case may be up to such limits as prescribed in the Kerala Financial Code.

## CHAPTER XXXI

### Conduct and Discipline

- 881.** The officer, clerks and peons shall attend office neatly and properly dressed. The peons on duty shall wear their belts and badges.
- 882.** The Head of the Office shall directly deal with the registering public. The parties or outsiders such as document writers shall not be allowed to approach the clerks for information, etc.,
- 883.** Professional witnesses and office peons shall not be examined as identifying witnesses.
- 884.** Registering Officers shall in their dealings with the public display courtesy, tact and good temper. Manifestation of grave defect of temper and loss of self-control will be treated as constituting inefficiency. They shall bear in mind that it is their primary duty to look to the interest and convenience of the registering public.
- 885.** Perfect order shall be maintained in the office during working hours. No subordinate shall be allowed to talk aloud or walk about unnecessarily.
- 886.** Each member shall handle with care the office records in his custody. Similarly, the articles of furniture set apart for each member shall be kept neat and clean.
- 887.** A work-diary (Form No.37) shall be maintained in each office for recording the turnover of work of each day. "At the end of each day, details regarding copying, indexing, preparation of memoranda, copies and certificates and other miscellaneous functions by each member shall be daily noted by the concerned member of the staff in his own handwriting against his name in the diary and each of such entry shall be verified and initialled by the Head Clerk. Entries shall be test checked and initialled by the Sub Registrar besides scrutinising the remaining entries.
- 888.** When work in a Sub Registry Office is heavy, it shall be the endeavour of every member of the staff and the officer to see that work is not allowed to fall into arrears by working out of office hours and on authorised holidays, if necessary.
- 889.** Work in a Sub Registry Office shall be distributed among the staff by the head of the office.
- 890.** Having regard to the various circumstances involved, including vagaries in calligraphy, the number of pages that clerks copy in register books may vary. But it is considered reasonable that a copying clerk should copy at least ten full pages in the register book a day, besides his other work. Extra work done out of office hours and on holidays will not be counted against this.
- 891.** The following notices shall be put on the notice board of the office:—  
Notice regarding:—
- (a) The Sub Registrar's residence.
  - (b) That the office time will be from 10.15a.m to 5.15p.m, and that documents will be accepted for registration from 10.15a.m. to 3.30p.m.



- (c) Table of fees (the relevant portion of the Table).
- (d) The names of panchayats or villages constituting the sub-district.
- (e) That chewing or smoking is prohibited within the premise of the office.
- (f) Regarding the destruction of unclaimed documents.
- (g) Regarding the destruction of temporary records.
- (h) Fee remaining un-refunded.
- (i) Vendors shall issue as far as possible, stamp papers of single denominations and when sufficient stock of stamp paper of any single denomination is not available, the vendors should endorse a certificate to the effect that a single stamp paper of the value required by the purchaser is not available. The full name and address and place of residence of the purchaser of stamp paper should also be endorsed on the stamp paper and it should tally with those of any one party to the document.

The notices shall be signed and dated by the Registering Officer.

The notices shall be in Malayalam (Tamil/Kannada).

**892. Leave and charge:—**

Registering Officers shall submit their applications for leave sufficiently early and should avail of the leave only after obtaining sanction from the competent authority.

**893.** Applications for extension of leave should also be submitted at least 15 days before the expiry of leave already granted. Permission to join duty on the termination of leave should be submitted through the proper channel at least ten days prior to the termination of leave.

**894.** Registering Officers proceeding on leave other than casual leave shall intimate their address on leave to the Inspector General of Registration.

**895.** A monthly consolidated statement of leave (other than casual or examination leave) granted to subordinates by the Registrars shall be forwarded by them to the Inspector General so as to reach before the 5<sup>th</sup> of the succeeding month in the form prescribed (Form No.84).

**896.** In every Registration Office a visitor's book shall be maintained for record of opinion from distinguished visitors. Blank books supplied may be utilised for the purpose.

## CHAPTER XXXII

**Miscellaneous****897. History of office:—**

In each Registration Office a history of office shall be maintained in the prescribed Register.

**898. In it the following particulars shall be entered in the appropriate heading furnished therein:—**

1. Particulars regarding the opening of the office.
2. Government building in which the office is or has been held.
  - (a) Government residential quarters for Registering Officers and their establishment if any.
3. Rented building in which the office has been or is being held.
4. Dates of inspections and visits.
5. Transactions.
6. Succession list of officers.
7. Establishment.
8. Jurisdiction with registrations. Suitable forms for the entry of particulars under each of the above headings are given in the Register. They shall be filled up correctly and appropriately.

The requisite details need be furnished only from the date of opening of the Register.

**899. Transfer of charge:—** Whenever a Registrar or Sub registrar proceeds on casual leave, formal transfer of charge in the prescribed form in the Account Code need not be submitted. Nevertheless, a report of the fact shall be submitted to the Registrar or to the Inspector General of Registration, as the case may be. The report shall contain acknowledgement of the collections, permanent advance, unclaimed documents, etc. Ordinarily a Sub Registrar shall not avail himself of casual or any other kind of leave without prior sanction. In exceptional cases, when due to circumstances beyond his control, a Sub Registrar is compelled to take casual leave without prior sanction and entrust charge of office to the head clerk or senior clerk in his office, the action of the sub registrar in having transferred charge has to be specifically approved by the registrar, while sanctioning the leave.**900. A register (in common form) shall be maintained in each Registration Office in which shall be entered the details of casual leave granted to subordinates. Application for casual leave shall be in and shall always specify the address while on casual leave.****901. In cases in which a Sub Registrar applies for leave sufficiently early, the Registrar shall while sanctioning the leave, specifically state as to whom the charge of the office, has to be handed over, so as to be in conformity with section 12 of the Indian Registration Act.**

902. A clerk holding charge of an office, though designated as Sub Registrar for all purpose connected with Registration, shall not present bills to the treasuries for encashment.
903. **Bills and acquittance rolls:**— In regard to claiming of pay and allowances, travelling allowances and preservation of the bills for such claims, the instructions in the Treasury Code, shall be strictly followed. Every bill for encashment shall be duly entered in the bill book which shall also be presented at the treasury along with the bills.
904. The entries in the acquittance roll shall be a true copy of the pay bills so as to avoid the necessity of preserving separate office copies of bills. In the case of officers' bills, where no entry is made in acquittance rolls, office copies of bills shall be maintained and kept in a separate file.
905. (a) In every case of a claim of arrears of pay, a note of the claim shall invariably be made in the office copy of the bill for the month or months in respect of which the arrears are claimed.
- (b) When bills are cashed, a note of the check prescribed under Treasury Rule 432-D, shall be made in the office copies of the bill whenever necessary.
906. In the acquittance roll below the entry of each bill, the amounts drawn and disbursed with dates shall be entered.
- Undisbursed amounts of pay or travelling allowance if any shall on date of disbursal be shown as balance and when subsequently disbursed, the disbursal entry shall be closed with balance as Nil.
907. **Administration Report:**— Statements I to II as shown in Appendix X required for the preparation of the Administration Report of the department shall be carefully and correctly prepared by Registering Officers. Except statements 6 and 7, which are to be prepared in district offices, all the other statements are to be prepared in the Sub Registry Offices. The Sub Registrars shall see that the statements are prepared and submitted to the Registrars before the 15<sup>th</sup> of May, each year. Registrars shall on receipt of them, consolidate the statements and forward them to the Inspector General of Registration before the 5<sup>th</sup> of June each year, together with the statements to be prepared in their own offices.
908. **Punishment register:**— In each Registration Office there shall be maintained a Punishment Register in Form No. 78. All punishments meted out to subordinates shall find a place in this register, the details being furnished in the appropriate columns.
909. Similar registers shall be maintained in district offices also in which punishments inflicted to Sub Registrars of the district and clerks and peons of the Registrar's office shall be recorded.
910. A separate file named 'file regarding punishments' shall also be maintained in each office, the entire correspondence dealing with each case being filed in this file with an alphabetical index. Details of all punishments including warning shall be entered in the register of punishments and the correspondents relating thereto shall be filed in the above file.

911. In Registrars' offices, a register of 'Appeals of Subordinate' shall be maintained in Form No.79. In it all appeals received and disposed of against punishments imposed shall be entered. A quarterly statement of the punishments imposed and appeals disposed of, shall be submitted to the Inspector General of Registration by the Registrar. The statement shall be received by the Inspector General of Registration on or before the 5<sup>th</sup> of January, April, July and October every year. If no punishments have been awarded in a quarter a nil statement shall be furnished.
912. Sub Registrars shall submit such quarterly statements before the due dates to the respective Registrars to enable them to forward the same to the office of the Inspector General of Registration, in time.
913. Records relating to punishments shall be preserved for forty years.
914. **Office Order Book:**— An office order book shall be maintained in all Registration Offices. As no specific form is prescribed for it, a blank book may conveniently be used. In it shall be entered all orders passed by the head of an office for the observance of the members of the staff. e.g.:- If the head of office requires a subordinate to attend office on a holiday, the order shall be entered in the office order book and be signed and dated by the head of office before the holiday. The initials of the concerned subordinates shall be obtained against the order in token of his having seen the order.
915. Liability register and register of special recoveries from Sub Registrars:— Besides the liability register in form prescribed in the Account Code, for entering court attachments, etc.. of the staff of an office, each Sub Registrar, shall maintain a register in Form No.34 showing the deficient fee and stamp duty to be recovered from Sub Registrars, The deficiency in fee and stamp ordered to be made good from Sub Registrars, shall be entered in this Register.
916. **Contingent Register and Vouchers:**— A contingent register in form prescribed in the Account Code, shall be maintained in each Registration Office. In it shall be entered allotments sanctioned under each head of expenditure in the appropriate column at the commencement of each financial year. Details of each contingent bill prepared and cashed shall be entered in it date-war.
917. The permanent advance sanctioned to each Registration Office shall be noted in the remarks column on the first working day of each financial year.
918. **Birth and Death Registers:**— Registering Officers who are Registrars of Birth and Deaths shall follow the rules and orders issued from time to time by the Registrar General of Births and Deaths. Records maintained in exercise of those functions shall be noted under a separate head in the Register of Records.
919. Sub Registrars of the Malabar area are the custodians of these Registers and shall give certified extracts therefrom under section 17 of the Birth and Death Registration Act.
920. The fees payable for searches and for the grant of extracts under section 17 of the Birth and death Registration Act shall be as follows:—

	<i>Rs.</i>
(a) Search for a single entry for the 1 <sup>st</sup> year for which the search is made	1.00
For every additional year for which the search is continued	0.50
(b) For granting an extract relating to each birth or death	1.00
Besides the fee under clause (a)	

**NOTE:**— If an applicant desires the transmission of the extract by post, the postal charges required therefor shall be deposited or sent by him.

**921.** The undermentioned instructions shall be observed in the collection and maintenance of these registers.

- (i) Each Sub Registrar shall maintain a register in Form D. (Birth and Death Registration Act, 1899).
- (ii) At the commencement of each year, the year shall be noted at the top of the register mentioned in Sub-clause (i) above and the names of all the villages for which the registers are due for the year shall be entered in column I of the register, two lines (one for the register of births and the other for the register of deaths) being used for each village; and
- (iii) Sub Registrars shall, on receipt of the registers, ensure that they are in the form standardized for the purpose and they contain the certificate regarding defects. The correctness of the certificate shall immediately be verified by an examination of the register page by page and if there are any discrepancies between the certificate and the register, it shall be returned with out delay for rectification to the officer from whom it was received.

**NOTE:**— Tahsildars and Deputy Tahsildars have been instructed that—

- (i) the duty of adding the certificate regarding defect should not be delegated to any officer subordinate to the Tahsildar or Deputy Tahsildar.
- (ii) the practice of adding the certificate on a slip of paper and pasting the slip to the registers should be stopped wherever it is in vogue.
- (iii) the registers should be scrutinised carefully and completely before the certificate is added and the Register is transmitted to the Sub Registrar.
- (iv) on the expiry of the period of three months, the Sub Registrar shall remind the Tahsildar or Deputy Tahsildar concerned in regard to registers over due and shall note the reminders in the Register mentioned in Sub-Clause (i).
- (v) each Sub Registrar shall submit to the Registrar on the 15<sup>th</sup> April of each year, a report regarding the receipt of registers of births and deaths due before the end of March of that year and their condition and the steps taken to call for registers overdue.

- (vi) when there is inordinate delay in the receipt of any register, the registrar shall place the matter before the Collector of the District.
- (vii) the covering letter of the Tahsildar forwarding the birth and death registers or a true copy thereof in case, the said letter is required to be returned in original should be preserved in the office and the number and date of the Tahsildar's letter should be noted in the remarks column of the register maintained under clause (i) above.

All correspondence relating to the transmission of registers of births and deaths from the Revenue Department and their receipt in the Sub Registry Office, shall be filed in a separate file-book which shall be preserved permanently.

- (viii) the Registrar shall during his inspection of a sub-office, examine the registers of births and deaths lodged in the office and make a report of their condition and whether the Sub Registrar has paid attention to the Rules in the matter of their receipt and safe custody. Registrars shall during their inspection of Sub Registry Offices also personally check whether all the registers received after the last inspection are in existence, whether the entries in the record registers are properly made as laid down in the Standing Orders and whether the correspondence relating to the receipt of the registers, is properly preserved.
- (x) the registers shall when received, be brought to account in the register of permanent records, under a separate head. The entries need not be renewed annually. But the names of the villages where the Birth and Death Registration Act is in force shall be set out in column 1 of the latter register and as each year's registers of births and deaths are received, the year alone shall be entered in columns (2) and (3) against the villages concerned.
- (xi) to the extracts granted by the Sub Registrar under section 17 of the Birth and Death Registration Act from the births and deaths registers, in his custody, he shall affix the seal of his Office as Sub Registrar.

**922. Surcharge Register:**— This register ordered to be maintained in Order 46 shall be closed at the end of each month. A copy of the same shall be sent to the Registrar on or before the 5<sup>th</sup> of the next month.

**923.** A quarterly statement of the collection shall also be submitted to the Registrar at the close of each quarter but before the 10<sup>th</sup> of the first month in the next quarter. The Registrar shall consolidate such statements received from the Sub Registrars of his District and forward it to the Inspector General before the 25<sup>th</sup> of the first month in the next quarter. The Sub Registrar and District Registrar will be held personally responsible for the submission of these returns on the due dates and without any mistakes.

## CHAPTER XXXIII

**Administrative orders on Chitties and Kuries**

924. **Variola to be on Stamp papers:**— Chitty and kuri variolas should be on stamp papers of such value, as required by the Kerala Stamp Act.
925. **Indication of Commission to foreman in variolas:**— A commission or remuneration not exceeding 5 percent of the chitty amount as provided for in section (18)(b) of the Travancore Chitties' Act shall alone be permitted to be incorporated in the variola.
926. **Securities:**—
- (a) **Verification of security-** When immovable properties are offered as securities, with reference to section 17 (1) of the Travancore Chitties' Act, the Ex-officio Chitty Registrars should exercise necessary check so as to know whether the value of the property offered as security is sufficient.
- (b) **Before each chitty is registered the Ex-officio Chitty Registrar should also verify whether the dues and compounding fee if any to be realised from the foreman in connection with chitty previously conducted by him has been completely realised and his other antecedents connected with the conducting of Chitties.**
932. **Interest on deposits:**—  
There is no objection in granting permission to chitty foreman, to draw interests if any, that may become due on security deposits made by him under section 17(1) of the Chitties Act.
933. **Chitty securities not attachable by court:**— Whenever an order of attachment is issued by a court, over any security furnished by chitty foreman with reference to section 17 of the Travancore Chitties' Act, the Ex-officio Chitty Registrars shall invariably file an objection before the concerned court pointing out the fact that the properties (or cash) attached is duly pledged as security by the foreman, in favour of subscribers and they cannot be attached until at such time as the purpose for which the properties or cash are offered as security is over.
934. **Instruction to be observed by Ex-officio Chitty Registrars with regard to filing of minutes:**— The following instructions shall be observed by Chitty Registrars whenever a minute is filed with the reference to Order 929 above.
- (1) Copies of chitty minutes presented for filing should invariably be compared with the original and the fact noted in the copies.
  - (2) The original minutes produced for comparison should be signed and dated.
  - (3) Where prize money is stated to be disbursed, the fact should be duly verified with documentary evidence and the minutes, on no account, shall be filed unless the original documents have been produced.

**NOTE:**— In cases when it is stated by the foreman, that the original documents have not been got back from registering officers after

registration and satisfactory evidence have been produced by him in support of his above statement, there is no objection in accepting the minutes for filing. In such cases, a written statement shall be obtained from the foreman, enumerating the Date and number of document, including the name of office and the reason for the delay. The statement should also contain an undertaking to the effect that he should produce the original document immediately after it is got back from the registering officer, and when the documents are so produced, they should be verified by the office and the result noted on the above statement. If any irregularities are detected prompt and suitable action should be taken.

- (4) When the unpaid prize money is stated to be deposited in approved banks, it should be substantiated by the production of original records, evidencing such deposit.
- (5) Whenever a substituted subscriber wins a prize at any instalment, and the money is disbursed to him, the amount due to the defaulted subscriber should be deposited in an approved bank, as provided for in section 28(i) of the Chitties' Act, and the Ex-officio Chitty Registrars should satisfy himself, that such deposits have been duly made.

**935. *Chitty Auditors empowered to exercise powers under certain sections of the Act:—*** Chitty Auditors have been empowered by Government to exercise the powers under sections 22 and 45 of the Chitties Act, in their notification No.S.R.5-3380/A/R.D. and S.R.5-3380/B/51-R.D., dated 28<sup>th</sup> July, 1951.

**936. *Audit of balance sheets:—*** The following procedures shall be strictly observed by Chitty Registrars and Chitty Auditors, in matters relating to the audit of balance sheets of chitties.

- (i) Every foreman should be required to pay to the Chitty Registrar the prescribed fee for the audit and the filing of each balance sheet.
- (ii) On payment of the fee, necessary fee receipts shall be issued to him and the fee realised should be credited in the appropriate accounts.
- (iii) On payment of the above fee, the foreman should be required to present a petition to the Chitty Auditor of the respective districts, through the concerned Chitty Registrar, stating that the prescribed fee purpose, has been remitted and the balance sheet may be duly audited.
- (iv) The Chitty Registrar will endorse on the petition the name of the person and the details regarding the payment of the audit fee including the date of realisation and forward the petition to the Chitty Auditor, with his remarks.

**937.** On receipt of the application from the Chitty Registrar as above, the Chitty Auditor shall issue suitable instructions to the foreman to produce the records and balance sheets at a place and date specified by him for the purpose of audit. The balance sheet prepared by foreman should be in triplicate; out of which one copy should be kept with the auditor's certificate and be filed with the Chitty Registrar by the foreman, retaining the second copy with him (foreman) for his chitty records. The third copy shall be retained by the chitty auditor for his office file.



938. Balance sheets should be prepared by foreman for each completed year from the date of commencement of the chitty, and a final balance sheet shall invariably be prepared and audited, even if the period covered is less than one year.
939. *Balance sheets not required for chitties with less than one year's duration:*— Balance sheets are not required for chitties, the duration of which is less than one year. In such cases, the chitties should be inspected by the chitty auditor and steps for the release of security amount shall be taken only after a certificate is issued by the auditor to the effect that the claims of the subscribers have been fully satisfied on the termination of the chitty. A specific recommendation as to whether the securities may be released, shall be made by him in the certificate.
940. The foreman should produce the certificate referred to above to the Ex-officio Chitty Registrar along with an application for effecting the release of chitty securities.
941. Whenever the chitty records are to be inspected, due notice shall be given to the foreman. The power of ordering production of records is different from powers of inspection. Foreman should see that all reasonable facilities are allowed to such officers for their inspection.
942. Irregularities of foreman in the conduct of chitties, such as noncompliance with the provision of the Act in the conducting of chitties, delay in filing the returns, failure to get the balance sheets audited, defaulting the conduct of chitties without proper authority if found repeated, the foreman shall not be allowed to escape, the penalty, by asking him to pay the nominal compounding fee, but suitable steps shall be taken to prosecute him. While reporting such offences committed by foremen, information as to the number of times the offences of the same nature committed by the foremen previously, in respect of the same chitty should invariably be reported.
943. *Issue of audit certificates by chitty auditors:*— Chitty auditor shall take particular care to see that audit certificates are not issued, unless and until the liabilities arising out of the chitty, till the instalment up to which the balance sheet covers are completely cleared and the offences if any have been compounded.
944. To make the above instructions possible, chitty auditors should prepare comprehensive notes of inspection and while auditing the chitty records, the liabilities outstanding against the foreman, and the number of offences compounded shall be found out and detailed in the report and a copy of such notes shall be forwarded to the Sub Registrar concerned for action through the District Registrar.
945. An audit certificate need be issued by the auditor only after satisfying himself that all liabilities outstanding against the foreman, have been cleared and the offences committed by him, if any, have been compounded.
946. The delay in filing the balance sheet of chitties should be calculated from the due date as per Chitties Rules 42(2) till the date of payment of the audit fee.
947. Form of the Notification to be published in the Gazette regarding release of Chitty Securities shall be in Form No.87.

**948. Kuri:—**

(1) In the case of foreman bank, the amounts falling under sections 15 and 24, that came to their possession can be invested in the same bank or other banks provided, the names of those banks are mentioned in the vaimpu. If not the amounts can be invested only in banks approved by the Government.

(2) In the case of foreman other than banks, the amounts under above two sections that have to be accounted for, after 4<sup>th</sup> November 1960 must be invested in approved banks or in such bank or banks or other securities, as are made mention of in the vaimpu. If no bank or banks or other securities are mentioned in the vaimpu, the amounts should be invested only in banks approved by the Government.

**949.** It is the entire prize money that has to be invested in pursuance of sections 15 and 24 and not the actual collections realised on kuri days. Ex-officio Registrar of Kuries should instruct the foreman that whenever securities under section 17 of the Travancore Chitties' Act and section 13 of the Kuries Act are in the form of movable property, they should be invested in National Plan Certificates or Treasury Savings Deposit Certificates.

## Alphabetical Index

*This Index is provided as part of the original text. However, the short-cut command (Ctrl+f) in computers, or the Search tool in mobile devices can be used for searching any word or phrase within this document, as it yields more comprehensive results.*

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