

**THE KERALA STAMP ACT, 1959**  
**(Act 17 of 1959)**

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SCHEDULE

**THE KERALA STAMP ACT, 1959**  
**(Act 17 of 1959)<sup>1</sup>**

Amended by

(Acts 19 of 1963, 17 of 1967, 29 of 1969, 6 of 1972, 7 of 1973, Finance Act 19 of 1983, Finance Act 14 of 1985, Act 14 of 1988, Finance ordinance 9 of 1991, Act 16 of 1991 And Finance Act, 19 of 1994)

*An Act to consolidate and amend the law relating to stamps in the State of Kerala*

WHEREAS it is expedient to consolidate and amend the law relating to stamps in the State of Kerala;

BE it enacted in the Tenth Year of the Republic of India as follows:-

**CHAPTER – I**  
**Preliminary**

**1. Short title, extent and commencement:-**

- (1) This Act may be called the Kerala Stamp Act, 1959.
- (2) It extends to the whole of the State of Kerala.
- (3) It shall come into force on such date as the Government may, by notification in the Gazette appoint.<sup>1</sup>

**2. Definitions:-** In this Act, unless the context otherwise requires:-

- (a) “bond” includes:-
  - (i) any instrument where by a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified Act is performed, or is not performed, as the case may be;
  - (ii) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another; and
  - (iii) any instrument so attested, whereby a person obliges himself to deliver grain or other agricultural produce to another;
- (b) “Chargeable” means, as applied to an instrument executed or first executed after the commencement of this Act, chargeable under this Act, and as applied to any other instrument, chargeable under the law in force I the territories of the State of Kerala when such instrument was executed, or, where several persons executed the instrument at different times, first executed;

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<sup>1</sup> The Act came into force on 1-9-1960 by Notification No. GI-13823/59-1/RD dated 10-8-1960 and Published in Kerala Gazette No. 33 Dated 16-8-1960.  
For definition “Document” See General Clauses Act, 1897

- (c) “Collector” means the Chief Officer in charge of the Revenue Administration of a District; and includes any other officer whom the Government may, by notification in the Gazette, appoint in this behalf;
- (d) “Conveyance” includes a conveyance on sale and every instrument by which property, whether movable, or immovable is transferred *inter vivos* and which is not otherwise specifically provided for by the Schedule;
- (e) “Duly Stamped” as applied to an instrument means that the instrument *bears* an adhesive or impressed stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with the law for the time being in force in the territories of the State of Kerala;
- (f) “Executed” and “Execution” used with reference to instruments, mean “signed” and “Signature”.
- (ff) “fair value of land” means the fair value of land fixed under section 28A<sup>1</sup>
- (g) “Government Security” means a Government Security as defined in the Public Debt Act, 1944 (Central Act 18 of 1944);
- (h) “impressed stamp” includes - -
  - (i) labels affixed and impressed by the proper officer; and
  - (ii) stamps embossed or engraved on stamped paper;
- (i) “India” means the territory of India excluding the State of Jammu and Kashmir;
- (j) “Instrument” includes every document by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded but does not include a bill of exchange, promissory note, bill of lading, letter of credit, policy of insurance, transfer of share, debenture, proxy and receipt;<sup>2</sup>
- (k) “Instrument of Partition” means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any Revenue Authority or any Civil Court and an award by an arbitrator directing a partition;
- (l) “Lease” means a lease of immovable property, and includes also:-
  - (i) Marayapattom;
  - (ii) Kanapattom;
  - (iii) an agreement or other undertaking in writing not being a counterpart of a lease, to cultivate, occupy, or pay or deliver rent for immovable property;
  - (iv) an agreement or other undertaking in writing, executed by the renters of abkari and opium farms;
  - (v) any instrument by which tolls of any description are let;

<sup>1</sup> Inserted by Kerala Finance Act, 1994 (Act 19 of 1994 ) with effect from 1-4-1994.

<sup>2</sup> Instruments of any of the kinds mentioned in Schedule I of the Act is taxable under the item of schedule under which it falls. Rectification deeds are not instruments and rectifications rectifying clerical errors are not taxable to duty. R. Dis 10620/65/LR dated 30-3-1965 of Board of Revenue, Kerala.

- (vi) any writing on an application for a lease intended to signify that the application is granted; and
- (vii) a patta.
- (m) “Marketable Security” means a security of such a description as to be capable of being sold in any stock market in India; (mm) [x x x]<sup>1</sup>
- (n) “Mortgage Deed” includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates, to or in favour of another, a right over or in respect of specified property;
- (o) “Paper” includes vellum, parchment or any other material on which an instrument may be written;
- (p) “Power of Attorney” includes any instrument (not chargeable with a fee under the law relating to Court fees for the time being in force) empowering a specified person to act for and in the name of the person executing it;
- (q) “Settlement” means any non-testamentary disposition in writing, of movable or immovable property made - -
  - (i) in consideration of marriage,
  - (ii) for the purpose of distributing property of the settler among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him, or
  - (iii) for any religious or charitable purpose;and includes an agreement in writing to make such a disposition (and where any such disposition has not been made in writing, *any instrument recording whether by way of declaration, of trust or otherwise, the terms of any such disposition*);
- (r) “Vessel” means anything for the conveyance, by water, of human beings or property.

## CHAPTER II

### Stamp Duties

#### A. OF THE LIABILITY OF INSTRUMENTS TO DUTY

- 3. Instruments chargeable with duty:-** Subject to the provisions of this Act and the exemptions contained in Schedule, the following instruments shall be chargeable with duty of the amount indicated in that Schedule as the proper duty therefore, respectively, that is to say - -

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<sup>1</sup> Inserted by Act 14 of 1988 “(mm) minimum value of land means the minimum value of land fixed by the Collector under Section 28A, by notification in the Gazette or the consideration paid for such land as set for the in the instrument whichever is higher”. This insertion was deleted by Act 16 of 1991. This was operative from 9-2-1988 to 10-1-1991 Kerala Gazette – Extra – ordinary No. 506, Dated 11-4-1991.

- (a) every instrument mentioned in the Schedule which not having been previously executed by any person, is executed in the territories of the State of Kerala on or after commencement of this Act; and
- (b) every instrument mentioned in that schedule which, not having been previously executed by any person, is executed out of the State of Kerala on or after that day relates to any property situate, or to any matter or thing done or to be done, in the territories of the State of Kerala and is received in the territories of the State of Kerala:

Provided that no duty shall be chargeable in respect of - -

- (1) any instrument, executed by, or on behalf of, or in favour of, the Central Government of this or any other State Government in case where, but for this exemption, the Central Government or the State Government, would be liable to pay the duty chargeable in respect of such instrument;
- (2) any instrument for sale, transfer or other disposition either absolutely or by way of mortgage or otherwise of any ship or vessel or any part, interest, share or property of or in any ship or vessel.

**3A** [x x x]<sup>1</sup>

**4. Several instruments used in single transaction of sale, mortgage or settlement:-**

- (1) Where in the case of any sale, mortgage or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed in Schedule for the conveyance mortgage, or settlement, and each of the other instruments shall be chargeable with a duty of [Fifteen Rupees]<sup>2</sup> instead of the duty, if any, prescribed for it in Schedule.
- (2) The parties may determine for themselves which of the instruments so employed shall, for the purpose of sub-section (1), be deemed to be the principal instrument:

Provided that the duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect of any of the said instruments employed.

- 5. Instruments relating to several distinct matters:-** Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.
- 6. Instruments coming within several descriptions in Schedule:-** Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the descriptions in the Schedule shall, where the duties chargeable there under are different, be chargeable only with the highest of such duties:

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<sup>1</sup> Inserted by Act 6 of 1972, subsequently omitted by Act 7 of 1973. It ran as follows:-

“3A. Charging additional stamp duty of twenty paise for refugees relief”.

<sup>2</sup> Two rupees substituted by fifteen Rupees by Act 14 of 1988 with effect from 24-2-1988

Provided that nothing contained in this Act shall render chargeable with duty exceeding [Fifteen Rupees]<sup>1</sup> a counter part or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

[Explanation \* \* \* \*]<sup>2</sup>

**7. Payment of higher duty in respect of certain instruments:-**

(1) Notwithstanding anything contained in section 4 or 6 or in any other enactment, unless it is proved the duty chargeable under this Act has been paid:

(a) on the principal or original instrument, as the case may be, or

(b) in accordance with the provisions of this section, the duty chargeable on an instrument of sale, mortgage or settlement, other than a principal instrument or on a counterpart, duplicate or copy of any instrument shall, if the principal or original instrument would, when received in the State, have been chargeable under this Act with a higher rate of duty, be the duty with which the principal or original instrument would have been chargeable under section 19.

(2) Notwithstanding anything contained in any enactment for the time being in force, no instrument, counterpart, duplicate or copy chargeable with duty under this section shall be received in evidence unless the duty chargeable under this section has been paid thereon:

Provided that any Court before which any such instrument, duplicate or copy is produced may permit the duty chargeable under this section to be paid thereon and may then receive it in evidence.

**8. Bonds or other securities issued on loans:-**

(1) Notwithstanding any thing contained in this Act, any local authority raising a loan under the provisions of any law for the time being in force, by the issue of bonds or, other securities other than debentures shall in respect of such loan, be chargeable with a duty of one per centum on the total amount of the bonds, or other securities issued by it, and such bonds or other securities need not be stamped and shall not be chargeable with any further duty on renewal, consolidation, subdivision or otherwise.

(2) The provisions of sub-section (1) exempting certain bonds, or other securities from being stamped and from being chargeable with certain further duty shall apply to the bonds or other securities other than debentures of all outstanding loans of the kind mentioned thereon, and all such bonds or other securities shall be valid, whether the same are stamped or not.

(3) In the case of willful neglect to pay the duty required by this section the local authority shall be liable to forfeit to the Government a sum equal to ten per centum upon the

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<sup>1</sup> Five rupees substituted by fifteen Rupees by Act 14 of 1988 with effect from 24-2-1988. Earlier the words "five Rupees" were substituted for the words, "Four Rupees Fifty paise" by Act 29 of 1969, with effect from 20-4-1969.

<sup>2</sup> Explanation omitted by Act 7 of 1973



amount of duty payable, and alike penalty for every month after the first month during which the neglect continues.

**9. Power to reduce, remit or compound duties:-**

- (1) The Government may, by order published in the Gazette:-
  - (a) reduce or remit, whether prospectively, or retrospectively in the whole or any part of the State of Kerala, if in the opinion to if the Government it is necessary in public interest so to do, the duties with which any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable; and
  - (b) Provided for the composition or consolidation of duties in the case of issues by any incorporated company or other body corporate of bonds or other marketable securities other than debentures.
- (2) Every rule or order published under clause (a) of sub-section (1) shall be laid as soon as may be after it is published, before the Legislative Assembly.

**B. OF STAMPS AND THE MODE OF USING THEM**

**10. Duties how to be paid:-**

- (1) Exempt as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and such payment shall be indicated on such instruments, by means of stamps:-
  - (a) according to the provisions herein contained; or
  - (b) when no such provision is applicable thereto, as the Government may by rules direct.
- (2) The rules made under sub-section (1) may, among other matters, regulate:-
  - (a) in the case of each kind of instrument – the description of stamps which may be used;
  - (b) in the case of instruments stamped with impressed stamps – the number of stamps which may be used.

**11. Use of adhesive stamps:-** The following instruments may be stamped with adhesive stamps:-

- (a) instruments chargeable with the duty of [Twenty Paise]<sup>1</sup> and less;
- (b) [Certificate of enrolment in the roll of advocates maintained in the State Bar Council]<sup>2</sup>
- (c) Notarial Acts;

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<sup>1</sup> Substituted by Act 29 of 1969

<sup>2</sup> Endorsement on Mortgage documents are exempted from stamp duty vide this provision.

(d) Instruments as the Government may, by notification in the Gazette, specify.

**12. Cancellation of adhesive stamps:-**

(1) (a) Whoever affixes any adhesive stamp to any instrument chargeable with duty which has been executed by any person shall, when affixing such stamp, cancel the same so that it cannot be used again; and

(b) Whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.

(2) Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again shall, so far as such stamp is concerned, be deemed to be unstamped.

(3) The person required by sub-section (1) to cancel an adhesive stamp may cancel it by writing on or across the stamp his name or initials or the name or initials or his firm with the true date of his so writing or in any other effectual manner.

**13. Instruments stamped with impressed stamps how to be written:-** Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

**14. Only one instrument to be on same stamp:-** No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written:

Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.<sup>1</sup>

**15. Instruments written contrary to section 13 or 14 deemed unstamped.—**Every instrument written in contravention of section 13 or section 14 shall be deemed to be unstamped.

**[16. Denoting Duty:-** Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last mentioned duty shall be denoted upon such first mentioned instrument by:-<sup>2</sup>

(i) The Collector, if application is made in writing for the purpose and on production of both the instruments: or

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<sup>1</sup> Endorsement on Mortgage documents are exempted from stamp duty vide this provision.

<sup>2</sup> Substituted by Act 17 of 1967 with effect from 15-9-1967

- (ii) By the Registering Officer on production of both the instruments, by endorsement under the hand of the Collector or the Registering Officer, as the case may be, or in such other manner as Government may by rules prescribe]

### **C. OF THE TIME OF STAMPING INSTRUMENTS**

- 17. Instruments executed in the State of Kerala:-** All instruments chargeable with duty and executed by any person in the State of Kerala shall be stamped before or at the time of execution.
- 18. Instruments executed out of India:-**
- (1) Every instrument chargeable with duty executed only out of India may be stamped within three months after it has been first received in the State of Kerala.
  - (2) Where any such instrument cannot, with reference to the description of stamp prescribed thereof, be duly stamped by a private person, it may be taken within the said period of three months to the Collector who shall stamp the same, in such manner as the Government may by rules prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.
- 19. Payment of duty on certain instruments liable to increased duty in the State of Kerala:-** Where any instrument of the nature described in any article in the Schedule and relating to any property situate or to any matter or thing done or to be done in the State of Kerala is executed out of the said State and subsequently received in the said State:-
- (a) the amount of duty chargeable on such instrument 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.
  - (b) and in addition to the stamps, if any, already affixed thereto such instrument shall be stamped with the stamps necessary for the payment of the duty chargeable on it under clause (a) of this section, in the same manner and at the same time and by the same persons as though such instrument were as instrument received in the State of Kerala for the first time at the time when it became chargeable with the higher duty, and
  - (c) the provisions contained in clause (b) of the proviso to sub-section (3) of section 32 shall apply to such instrument as if such were an instrument executed or first executed out of India and first received in the State of Kerala when it became chargeable to the higher duty aforesaid, but the provision contained in clause (a) of the said proviso shall not apply thereto.

### **D. OF VALUATION FOR DUTY**

- 20. Conversion of amount expressed in foreign currencies:-**
- (1) Where an instrument is chargeable with *ad valorem* respect of any money expressed in any currency other than that of India, such duty shall be calculated on the value of

such money in the currency of India according to the current rate of exchange on the day of date of the instrument.

- (2) The rate of exchange prescribed by the Central Government under sub-section (2) of section 20 of the Indian Stamp Act, 1889 (Central Act II of 1889) shall be deemed to be the current rate of exchange for the conversion of any foreign currency for the purpose of calculating the duty under sub-section (1)

**21. Stock and marketable securities how to be valued:-** Where an instrument is chargeable with *ad valorem* in respect of any stock or of any marketable or other security, such duty shall be calculated on the value of such stock or security according to the average price or the value thereof on the day of date of the instrument.

**22. Effect of statement of rate of exchange or average price:-** When an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it shall, so far as regards the subject matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

**23. Instrument reserving interest:-** Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

**24. Certain instruments connected with mortgages of marketable securities to be chargeable as agreements:-**

(1) Where an instrument:-

(a) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt; or

(b) makes redeemable or qualifies a duty stamped transfer intended as a security, of any marketable security;

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under Article 5 of the Schedule.

(2) A release or discharge of any such instrument shall be chargeable with the like duty.

**25. How transfer in consideration of debt, or subject to future payment etc., to be charged:-** Where any property is transferred to any person in consideration, wholly or in part of any debt due to him or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or encumbrance upon the property or not such debt, money, or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof is chargeable with *ad valorem* duty:

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article 16 of the Schedule.

**Explanation:-** In the case of a sale property subject to a mortgage or other encumbrance any unpaid mortgage money or money charged, together with the interest, if any, due on the same, shall be deemed to be part of the consideration for the sale:

Provided that, where property subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid [\* \* \* \*]<sup>1</sup> in respect of the mortgage.

#### **Illustrations**

- (1) A owes B Rs. 1,000. A sells a property to B the consideration being Rs. 500 and the release of the previous debt of Rs. 1,000 Stamp duty is payable on Rs. 1,500.
- (2) A sells a property to B for Rs. 500 which is subject to a mortgage to C for Rs. 1,000 and unpaid interest Rs. 200. Stamp duty is payable on Rs. 1,700.
- (3) A mortgages a house of the value of Rs. 10,000 to B for Rs. 5,000. B afterwards buys the house from A. Stamp duty is payable on Rs. 10,000 less the amount of stamp duty already paid for the mortgage.

**26. Valuation in case of annuity, etc.:-** Where an instrument is executed to secure the payment of annuity or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument or the consideration for such conveyance, as the case may be, shall, for the purposes of this Act, be deemed to be:-

- (a) Where the sum payable for a definite period so that the total amount to be paid can be previously ascertained such total amount;
- (b) Where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance – the total amount which according to the terms of such instrument or conveyance will or may be payable during the period of twenty years calculated from the date on which the first payment becomes due; and
- (c) Where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance – the maximum amount which will or may be payable as aforesaid during the period of twelve years calculated from the date on which the first payment becomes due.

**27. Stamp where value of subject is indeterminate:-** Where the amount or value of the subject matter of any instrument chargeable with *ad valorem* duty cannot be or could not have been, ascertained at the date of its execution, or first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution have been sufficient:

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<sup>1</sup> Inserted by Act 6 of 1972. Subsequently omitted by Act 7 of 1973. (“Other than the additional duty paid in pursuance of sub-section (2) of section 3A)

Provided that, in the case of the lease of mine in which royalty or a share of the produce is received as the rent or the part of the rent it shall be sufficient to have estimated such royalty or the value of such share, for purpose of stamp duty:-

- (a) When the lease has been granted by or on behalf of the Government, at such amount or value as Collector may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the Government under the lease; or
- (b) When the lease has been granted by any the person, at twenty thousand rupees a year;

and the whole amount of such royalty or share, whatever may be, shall be claimed under such lease:

Provided also that, where proceedings have been taken in respect of any instrument under section 31 or 39 the amount certified by the Collector shall be deemed to be the stamp actually used at the date of executing.

**28. Facts affecting duty to be set forth in instrument:-** The consideration, if any, and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

**[“28.A. Fixation of fair value of land:-<sup>1</sup>**

- (1) Every Revenue Divisional Officer shall, subject to such rules as may be made by the Government in this behalf, fix the fair value of the lands situate within the area of his jurisdiction, for the purpose of determining the duty chargeable at the time of registration of instruments involving lands.

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<sup>1</sup> 28A section was inserted by Act 14 of 1988 and was deleted by Act 16 of 1991. The following is the section 28A. Fixation of minimum value of land:-

- (1) The Collector shall subject to such rules as may be prescribed by Government, fix the minimum value of lands situate within the area of his jurisdiction, for the purpose of determining the duty chargeable at the time of registration of instruments involving lands.
- (2) The Collector shall in fixing the minimum value of land under sub-section (1), have regard '*inter alia*' to the following matters, namely:-
  - (a) development of area such as the commercial importance, facilities for water supply, electricity, transport and communication;
  - (b) proximity to markets, bus stations, railway stations, factories, educational institutions or other institutions;
  - (c) the geographical lie of the land, the nature of land such as dry, waste, wet or garden land, fertility, nature of crop, yielding capacity and cost of cultivation; and
  - (d) such other matters as may be prescribed by the rules
- (3) The minimum value of land, fixed under sub-section (1) shall be published in such manner as may be prescribed by rules made under this Act.
- (4) No appeal or revision shall lie against the decision of the Collector under sub-section (1).

[This said section came into force from 9-2-1988 and deleted with effect from 11-1-1991 S. 28A Omitted by Act 16 of 1991 in K.G. Ext. No. 506 dated 11-4-1991]

- (2) The Revenue Divisional Officer shall, in fixing the fair value of a land under sub-section (1); have regard *inter alia* to the following matters, namely:-
  - (a) development of the area in which the land is situate such as the commercial importance, facilities for water supply, electricity, transport and communication;
  - (b) proximity of the land to markets, bus stations, railway stations, factories, educational institutions or other institutions;
  - (c) the geographical lie of the land, the nature of the land such as dry, waste, wet or garden land, fertility, nature of crop, yielding capacity and cost of cultivation; and
  - (d) such other matters as may be provided in the rules made under this Act.
- (3) the fair value of land fixed under sub-section (1) shall be published in such manner as may be provided in the rules made under this Act.
- (4) any person aggrieved by the fixation of fair value under sub-section (1) may, within thirty days of its publication under-section (3) appeal to the collector”;<sup>1</sup>

**29. Direction as duty in case of certain conveyance:-**

- (1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, provided that a distinct consideration for each separate part is set forth in the conveyance relating thereto and such conveyance shall be chargeable with ad valorem duty in respect of such distinct consideration.
- (2) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed on parts by separate instruments to the persons by or for whom the same was purchased for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with ad valorem duty in respect of the distinct part of the consideration therein specified.
- (3) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the same to any other person and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with ad valorem duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.
- (4) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contract to sell whole or any part thereof to any other person or persons and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-

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<sup>1</sup> The Present 28A Section inserted by Finance Act, 1994 (Act 19 of 1994) with effect from 1-4-1994.

purchaser shall be chargeable ad valorem duty in respect only of the consideration paid by such sub-purchaser without regard to the amount or value of the original consideration; and the conveyance of the residue, if any, of such property to the original purchaser shall be chargeable with ad valorem duty in respect only of the excess of the original consideration over the aggregate of the consideration paid by the sub-purchasers.

Provided that the duty on such last mentioned conveyance shall in no case be less than two rupees.

- (5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with ad valorem duty in respect of the consideration paid by him and is duly stamped accordingly any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller, or where such duty would exceed ten rupees, with a duty of ten rupees.

#### **E. DUTY BY WHOM PAYABLE**

**30. Duties by whom payable:-** In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne.

- (a) in the case of any instrument described in any of the following articles of the Schedule, namely.—  
No. 2 (Administration Board)  
No. 6 (Agreement relating to deposit to title deeds, pawn or pledge),  
No. 13 (Bond),  
No. 14 (Bottomry Bond),  
No. [25]<sup>1</sup> (Customs Bond or Central Excise Bond<sup>2</sup>),  
No. [30]<sup>1</sup> (Further Charge),  
No. [32]<sup>1</sup> (Indemnity Bond),  
No. [37]<sup>1</sup> (Mortgage Deed),  
No. [48]<sup>1</sup> (Release),  
No. [49]<sup>1</sup> (Respondentia Bond),  
No. [50]<sup>1</sup> (Security Bond or Mortgage Deed),  
No. [51]<sup>1</sup> (Settlement),  
No. [55]<sup>1</sup> (c) (Transfer of any interest secured by a Bond or Mortgage Deed), by the person drawing, making or executing such instrument;
- (b) in the case of a conveyance (including a reconveyance of mortgaged property) by the grantee; in the case of a lease or agreement to lease by the lessee or intended lessee;
- (c) in the case of a counterpart of lease - - by the lessor;

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<sup>1</sup> Substituted by Act 29 of 1969.

<sup>2</sup> Substituted by Act 17 of 1967 with effect from 15-9-1967



- (cc) [in the case of a certificate of enrolment in the roll of advocates maintained by the State bar Council - - by the advocate enrolled;]<sup>1</sup>
- (d) in the case of an instrument of exchange - - by the parties in equal shares;
- (e) in the case of a certificate of sale - - by the purchaser of the property to which such certificate relates; and
- (f) in the case of an instrument of partition - - by the parties thereto in proportion to their respective shares in the whole property partitioned, or, when the partition is made in execution of an order passed by a Revenue Authority or Civil Court or Arbitrator, in such proportion as such Authority or Court or Arbitrator directs.

### **CHAPTER III**

#### **Adjudication as to Stamps**

#### **31. Adjudication as to proper Stamp:-**

- (1) When any instrument, whether executed or not and previously stamped or not is brought to the Collector, and the person bringing it applies to have the opinion of that officers as to duty, if any, with which it is chargeable, and pays a fee of such amount not exceeding ten rupees and not less than one rupees) as the Collector may in each case direct, the Collector shall determine the duty, if any, with which, in his judgment, the instrument is chargeable.
- (2) For this purpose the Collector may require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duly, or the amount of the duly with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application, until such abstract and ebvidence have been furnished accordingly:

Provided that

- (a) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding except in any enquiry as to the duty with which the instrument to which it relates is chargeable; and
- (b) every person by whom any such evidence is furnished shall, on payment of full duty with which the instrument to which it relates, is chargeable, be relieved from any penalty which he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

#### **32. Certificate by Collector:-**

- (1) When an instrument brought to the Collector under section 31, is in his opinion, one of a description chargeable with duly, and

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<sup>1</sup> Inserted by *ibid*.

- (a) the Collector determines that it already fully stamped, or
  - (b) the duty determined by the Collector under section 31, or such a sum as, with duty already paid in respect of the instrument is equal to the duty so determined, has been paid, the Collector shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.
- (2) When such instrument is, in his opinion, not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.
- (3) Any instrument upon which an endorsement has been made under this section shall be deemed to be duly stamped or not chargeable with duty as the case may be; and, if chargeable with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it has been originally duly stamped.

Provided that nothing in this section shall authorize the Collector to endorse:-

- (a) any instrument executed or first executed in India and brought to him after the expiration of one month from the date of its execution, or first execution, as the case may be;
- (b) any instrument executed or first executed out of India and brought to him after the expiration of three months after it has been first received in the State; or
- (c) any instrument chargeable with the duty of<sup>1</sup>[twenty Paise] or less than<sup>1</sup> [twenty Paise] when brought to him, after the execution thereof on paper not duly stamped.

## CHAPTER VI

### Instruments not duly Stamped

#### **33. Examination and impounding of instruments:-**

- (1) Every person having by law or consent of parties authority to receive evidence, and every person in charge of a public office, except an Officer of Police, before whom any instrument, chargeable in his opinion, with duty, is produced or comes in this performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.
- (2) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in the State when such instrument was executed or first executed:

Provided that

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<sup>1</sup> Substituted by Act 29 of 1969 w.e.f. 20-04-1969

- (a) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit to do, any instrument coming before him in the course of any proceeding other than proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898;
  - (b) in the case of a Judge of the High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in his behalf.
- (3) For the purpose of this section, in cases of doubt, the Government may determine:-
- (a) what offices shall be deemed to be public offices; and
  - (b) who shall be deemed to be persons in charge of public offices.
34. Instrument not duly stamped inadmissible in evidence, etc:- No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence or shall be acted upon, registered or authentication by any such person or by any public officer, unless such instrument is duly stamped.

Provided that

- (a) any such instrument not being an instrument chargeable with a duty of<sup>1</sup> [twenty paise] or less than<sup>1</sup> [twenty paise] shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of an instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty to five rupees or, when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of sum equal to ten times such duty or portion;
- (b) any such instrument, when presented to a Registering Officer for registration, shall be registered, if the party agrees to pay the duty and penalty due thereon as decided by the Registering Officer and pays the same within seven days from the date.
- (c) where a contract or agreement of any kind is effected by correspondence consisting of two or more letters and any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped;
- (d) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court, other than an proceeding under Chapter XII or Chapter XXXVI of the Code Of Criminal Procedure, 1898;
- (e) nothing herein contained shall prevent the admission of any instrument in any Court when such instrument has been executed by or on behalf of the Government, or where it bears the certificate of the Collector as provided by Section 32 or any other provision of this Act.

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<sup>1</sup> Substituted by Act 29 of 1969 with effect from 20-04-1969

**35. Admission of instrument where not to be questioned:-** When an instrument has been admitted in evidence such admission shall not except as provision in Section 59, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

**36. Admission of improperly stamped instruments:-** The Government may make rules providing that, where as instrument bears a stamp of sufficient amount but of improper description, it may, on payment of the duty with which the same is chargeable, be certified to duly stamped, and any instrument so certified shall then be deemed to have been duly stamped as from the date of its execution.

**37. Instruments impounded how dealt with:-**

(1) When the person impounding as instrument under section 33 has by law or consent of parties authority to receive evidence and admits such instrument in evidence or when he is a Registering Officer to register such instrument upon payment of a penalty as provided by section 34 or of duty as provided by section 36, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the amount of duty and penalty levied in respect thereof, and shall send such amount to the Collector or to such person as he may appoint in this behalf.

(2) in every other case, the person so impounding an instrument shall send it in original to the Collector.

**38. Collector's power to refund penalty paid under sub-section (1) of section 37:-**

(1) When a copy of an instrument is sent to the Collector under sub-section (1) of section 37, he may, if he thinks fit, refund the whole or any portion of the penalty in excess of ten rupees which has been paid in respect of such instrument.

(2) When such instrument has been impounded only because it has been written in contravention of section 13 or section 14, Collector may refund the whole penalty so paid.

**39. Collector's power to stamp instrument impounded:-**

(1) When the Collector impounds any instrument under section 33, or receives any instrument sent to him under sub-section (2) of section 37, not being an instrument chargeable with a duty of<sup>1</sup> [twenty paise] or less, he shall adopt the following procedure:-

(a) if he is of opinion that such instrument is duly stamped or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped or that it is not so chargeable as the case may be;

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<sup>1</sup> The words "twenty paise" were submitted for the words "twelve paise" by Act 1969 of 1969 with effect from 20-04-1969

- (b) if he is so opinion that such instrument is chargeable with duty and is not duly stamped he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees; or of he thinks fit, an amount no exceeding ten times the amount of the proper duty or of the deficient portion thereof whether such amount exceeds or falls short of five rupees;

Provided that, when such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

- (2) Every certificate under clause (a) of sub-section (1) shall, for the purpose of this Act be conclusive evidence of the matters stated therein.
- (3) Where an instrument has been sent to the Collector under sub-section (2) of section 38, the Collector shall, when he has dealt with it as provided by this section, return it to the impounding officer.

**40 Instruments unduly stamped by accident:-** If any instrument chargeable with duty and not duly stamped, not being an instrument chargeable with a duty of<sup>1</sup> [twenty paise] or less is produced by any person of his own motion before the Collector within on year from the date of its execution or first execution and such person brings to the notice of the Collector the fact that such instrument is not duly stamped and offers to pay to the Collector the amount of the proper duty, or the amount required to make up the same and the Collector is satisfied that the omission to duly stamped such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceedings under section 33 and 39, receive such amount and proceed as next hereinafter prescribed.

**41. Endorsement of instruments on which duty has been paid under sections 34, 39, or 40:-**

- (1) When the duty and penalty, if any leviable in respect of any instrument have been paid under section 34, section 39 or section 40, the person admitting such instrument in evidence or the Collector, as the case may be, shall certify by endorsement thereon that the proper duty or, as the case may be proper duty and penalty (stating the amount of each) have been levied in respect thereof and the name and residence of the person paying them.
- (2) Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered on this application in this behalf to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct.
  - (a) no instrument which has been admitted in evidence upon payment of duty and a penalty under section 34 shall be so delivered before the expiration of one

month from the date of such impounding, or if the Collector has certified that its further detention is necessary and has not canceled such certificate;

- (b) Nothing in this section shall affect Order XIII. rule 9 of the first Schedule to the Code of Civil Procedure, 1908.

**42. Prosecution for offence against Stamp Law:-** The taking of proceedings or the payment of a penalty under this Chapter in respect of any instrument shall not bar the prosecution of any person who appears to have committed an offence the law relating to stamps in respect of such instrument:

**43. Person paying duty on penalty may recover same in certain cases:-**

- (1) When any duty or penalty has been paid under section 34, section 36, section 39 or section 40, by any person in respect of an instrument, and by agreement or under the provisions of section 30 or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid.
- (2) For the purpose of such recovery any certificate granted in respect of such instrument under this Act shall be conclusive evidence of the matters therein certified.
- (3) Such amount may, of the Court thinks fit, be included in any order as to costs in any suit or proceeding to which such persons are parties and in which such instrument has been tendered in evidence. If the Court does not include the amount in such order, no further proceedings for the recovery of the amount shall be maintainable.

**44. Power of Government or other specified authority to refund penalty or excess duty in certain cases:-**

- (1) Where any penalty is paid under section 34 or section 39, the Government or such other authority as may be specified by Government in this behalf may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.
- (2) Where, in the opinion of the Government or such Government or such other authority specified under sub-section (1), stamp duty in excess of that which is legally chargeable has been charged and paid under section 34 or section 39, the Government or such authority may upon, application in writing made within three months of the order charging the same, refund the excess.

**45. Non-liability for loss of instruments sent under section 37:-**

- (1) If any instrument sent to the Collector under sub-section (2) of section 37 is lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage.

- (2) When any instrument is about to be sent, the person from whose possession it came into the hands of the person impounding the same, may require a copy thereof to be made at the expense of such first-mentioned person and authenticated by the person impounding such instrument.

“[45A.<sup>1</sup> Instrument not bearing stamp of sufficient amount as per fair value of land how to be dealt with:-

- (1) Notwithstanding anything contained in this Act, the registering officer shall, while registering an instrument transferring any instrument transferring any land, other than an instrument of partition, settlement or gift among the members of a family, chargeable with duty verify whether the value of land or the consideration set forth in the instrument is the fair value of that land.
- (2) Where on such verification, the registering officer is satisfied that the value of the land or the consideration set forth in the instrument is not less than the fair value of the land, he shall duly register the instrument.
- (3) Where, on verification the registering officer finds that the value of the land or the consideration set forth in the instrument is less than the fair value of the land fixed under section 28A, he shall, by order, direct the payment of proper stamp duty on the fair value of the land fixed under section 28A within a period of seven days from the date of the order and on payment of the deficit stamp duty, the instrument shall be duly registered.
- (4) Any person aggrieved by an order under sub-section (3) may, within thirty days from the date of that order, appeal to the Collector within whose jurisdiction the land is situate.

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Section 45A of the Principal Act is re-numbered as 45B by Act 14 of 1988, 45A was inserted by Act 14 of 1988 which is detailed below and has been deleted from 11-1-1991 by Act 16 of 1991.

<sup>4</sup>5A Instrument not bearing stamp of sufficient amount as per minimum value of land how to be dealt with:-

- (1) Notwithstanding anything contained in this Act, the Registering Officer shall, while registering instrument transferring any land or of partition of property involving land chargeable with duty verify whether the value of land or the consideration set forth in the instrument is the minimum value of that land.
- (2) Where on such verification, the Registering Officer is satisfied that the value of land or the consideration set forth in the instrument is the minimum value of the land, he shall duly register the instrument.
- (3) Where on verification the Registering Officer finds that the value of land or the consideration set forth in the instrument is not the minimum value of land, he shall, by order, fix the minimum value of land, on the basis of the minimum value of land, on the basis of minimum value of land published under section 28A and the proper stamp duty payable thereon, and on payment of the deficient amount of duty, if any, by the person liable to pay the duty, he shall duly register the instrument.
- (4) Any person aggrieved by an order of the Registering Officer sub-section (3), may appeal to the Collector within whose jurisdiction the land is situate and the decision of the Collector shall, be final.

- (5) The Collector shall hear and dispose of the appeal in such manner as may be prescribed by rules made under this Act in behalf and his decision thereon shall be final”];<sup>1</sup>

**45B Instrument under valued how to be dealt with:-**

- (1) If the Registering Officer, while registering any instrument transferring any property, has reason to believe that the value of the property or the consideration, as the case may be, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the value or consideration, as the case may be, and the proper duty payable thereon.
- (2) On respect of a reference under sub-section (1), the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an enquiry in such manner as may be prescribed by rules made under this Act, by order, determine the value of the property or the consideration and the duty aforesaid; and the deficient amount of duty, if any, shall be payable by the person liable to pay the duty and, on the payment of such duty, the Collector shall endorse a certificate of such payment on the instrument under his seal and signature.
- (3) The Collector may, suo motu, within <sup>2</sup>[two years] from the date of registration of any instrument not already referred to him under sub-section (1), call for and examine the instrument for the purpose of satisfying himself as to the correctness of its value or consideration as the case may be, and the duty payable thereon, and if after such examination, he has reason to believe that the value or consideration has not been truly set forth in the instrument, he may determine the value or consideration and the duty aforesaid, in accordance with procedure provided for in sub-section (2); and the deficient amount of duty, if any, shall be payable by the person liable to pay the duty and, on the payment of such duty, the Collector shall endorse a certificate of such payment on the instrument under his seal and signature.

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45A

- (5) An appeal under sub-section (4) shall be filed within thirty days of the date of order sought to be appealed against.
- (6) The Collector shall hear and dispose of the appeal in such manner as may be prescribed by rules made under this Act within six months from the date of filing of the appeal or within such further time as may be extended by Government for reasons to be recorded in writing.  
Section 45A came into force from 12-11-1990 and was deleted w.e.f. 11-1-1991.
1. New 45A section inserted by Kerala Finance Act, 1994 (Act 19 of 1994) with effect from 1-4-1994.
  2. The words “two years” was substituted for the words “six months” by Act 21 of 1967 w.e.f. 16-9-1967.
  3. (3A) Inserted by Act 14 of 1988 with effect from 12-11-1990 and was deleted by Act 16 of 1991 with effect from 11-1-1991 it ran as follows:-  
(3A) Notwithstanding anything contained in Section 45A and the Schedule, where an instrument referred to in this section is an instrument involving transfer of land, the value or consideration thereof determined by the Collector under sub-section (2) or sub-section (3), as the case may be, shall be the basis for reckoning the proper amount of duty in respect of that instrument.



[(3A) [\*\*\*]<sup>3</sup>

- (4) Any person aggrieved by an order of the Collector under sub-section (2) or sub-section (3) may appeal to the District Court within whose jurisdiction the property transferred is situate.
- (5) An appeal under sub-section (4) shall be filed within thirty days of the date of order sought to be appeal against.
- (6) The District Court shall hear and dispose of the appeal in such manner as may be prescribed by rules made under this Act.

**[45C. Purchase of land by Government:-**

- (1) Notwithstanding anything contained in section 45A or section 45B, where a registering officer while registering any instrument, other than an instrument of partition, settlement or gift, among the members of a family, transferring any property, has reason to believe that the value of the land of the consideration set forth in the instrument is less by fifteen per cent or more of the fair value of the land fixed under section 28A, he may refer the same to the Collector for an order for purchase of the land by the Government.
  - (2) On receipt of a reference under sub-section (1) the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an enquiry in the manner as may be prescribed by rules made under this Act, by order, determine the duty based on the fair value of the land and direct the person liable to pay the duty to pay the deficit amount of duty together with such time as he may fix, which shall not be less than twenty-one days and, on payment of such duty, the Collector shall endorse a certified of such payment on the instrument under his seal and signature and thereupon the instrument shall duly registering officer.
  - (3) Where the person fails to comply with the direction under sub section (3), the Collector shall order for the purpose of the land by the Government by the Government by paying the value of land of consideration set forth in the instrument together with an amount equal to twenty five cent of such value or consideration.
  - (4) Where an order for the purpose of any land by the Government is made under sub-section (3), the Government shall pay by way of consideration for such purchase an amount equal to the amount specified in the said sub-section and on payment of such amount, the land shall vest in the Government free from all encumbrances.
  - (5) Any person aggrieved by an action under sub-section (4) may, within thirty days of the date of purchase by the Government, appeal to the District Court within whose jurisdiction the property purchases in situate”;<sup>1</sup>
64. Recovery of duties and penalties:- All duties, penalties and other sums required to be paid under this Chapter may be recovered by the Collector by distress and sale of the movable

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<sup>1</sup> Section 45C inserted by Kerala Finance Act, 1994, (Act 19 of 1994) with effect from 1-4-1994

property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land revenue.

## CHAPTER V

### Allowances for stamps in certain cases

**47. Allowance for spoiled stamps:-** Subject to such rules as may be made by the Government as to the evidence to be required, or the enquiry to be made, the Collector may, on application made, within the period prescribed in section 48, and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases hereinafter mentioned, namely:-

- (a) the stamp on any paper inadvertently and undersigned spoiled, obliterated or by error in writing or any other means rendered unfit for the purpose intended before any instrument written thereon is executed by any person;
- (b) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party thereto;
- (c) the stamp used for an instrument executed by any party thereto which-
  - (1) has been afterwards found to be absolutely void in law from the beginning;
  - (2) has been afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended;
  - (3) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot be completed so as to effect the intended transaction in the form proposed;
  - (4) for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended;
  - (5) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured or by the refusal or non-acceptance of any office thereby granted totally fails of the intended purpose;
  - (6) becomes useless in consequence of the transaction intended to be thereby effected, being effected by some other instrument between the same parties and bearing a stamp of not less value;
  - (7) is deficient in value and the transaction intended to be thereby effected has been effected by some other instrument between the same parties and bearing a stamp of not less value;
  - (8) is inadvertently and undersignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped.

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

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

48. Application for relief under section 47 when to be made:- The application for relief under section 47 shall be made within the following periods, that is to say-

- (1) in the cases mentioned in clause (c) (5) within two months of the date of the instrument.
- (2) in the case of a stamp paper on which no instrument has been executed by any of the parties thereto, within six months after the stamp has been spoiled;
- (3) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, within six months after the date of the instrument or if it not dated, within six months after execution thereof by the person by whom it was first or alone executed.

Provided that

- (a) when the spoiled instrument has been for sufficient reasons sent out of the State, the application may be made within six months after it has been received back in the State.
- (b) When, from unavoidable circumstances, any instrument for which another instrument has been substituted, cannot be given up to be cancelled within the aforesaid period, the application may be made within six months after the date of execution of the substituted instrument.

49. Allowance in case of printed form no longer required by Corporations:- The Government or such other authority as be specified in this behalf by Government may, without limit of time, make allowance for stamped papers used for printed forms of instruments by any banker or by any incorporated company or other body corporate, if for any sufficient reason such forms have ceased to be required by the said banker, company or, body corporate:

Provided that the Government or such authority is satisfied that the duty in respect of such stamped papers has been duly paid.

**50 Allowance for misused stamps:-**

- (a) When any person has inadvertently used for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or stamp of greater value than was necessary or has inadvertently used any stamp for an instrument having been written in contravention of the provisions of section 13;

The Collector may, on application made within six months after the date of the instrument, or if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being restamped with the proper duty, cancel and allow as spoiled that stamp so misused or rendered useless.

**51. Allowance for spoiled or misused stamps how to be made:-** In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof-

- (a) other stamp of the same description and value; or
- (b) if required and he thinks fit, stamps of any other description to the same amount in value; or.
- (c) at this description, the same value in money deducting six paise for each rupees or fraction of a rupee.

**52. Allowance for stamps not required for use:-** When any person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp or stamps in money, deducting six paise for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction:-

- (a) that such stamp or stamps were purchased by such person with bona fide intention to use them; and
- (b) that he has paid the full price thereof; and
- (c) that they were so purchased within the period of six months next preceding the date of which they were so delivered:

Provided that, where the person is a licensed vendor of stamps, the Collector may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid.

**53. Allowances for stamps in denominations of annas:-** Notwithstanding anything contained in section 52, when any person is possessed of a stamp or stamps in any denominations other than in denominations of annas four or multiples thereof and such stamp or stamps has or have not been spoiled, the Collector shall repay to such person the value of such stamp or stamps in money calculated in accordance with the provisions of sub-section (2) of section 14 of the Indian Coinage Act, 1906 (3 of 1906), upon such person delivering up, within six months from the commencement of this Act, such stamp or stamps to the Collector.

## CHAPTER VI

### Reference and Revision

**54. Control of and statement of case to, the Government or other authority specified by the Government:-**

- (1) The powers exercisable by a Collector under Chapter IV and Chapter V and under clause (a) of the first proviso to section 27 shall in all cases be subject to the control of the Government or such other authority as may be specified by Government in this behalf.
- (2) If any Collector acting under section 31, section 39 or section 40, feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case and refer it with his own opinion thereon, for decision of the Government or such other authority as may be specified by Government in this behalf.
- (3) The Government or such authority shall consider the case and send a copy of its decision to the Collector, who shall proceed to assess and charge the duty, if any, conformity with such decision.

**55. Statement of case by the Government or other authority specified by the Government to High Court**

- (1) The Government or such authority as may be specified by Government in this behalf may state case referred to it under sub-section (2) of section 54 or otherwise coming to its notice, and refer such case, with its own opinion thereon, to the High Court.
- (2) Every such case shall be decided by not less than three Judges of the High Court, and in case of difference, the opinion of the majority shall prevail.

**56. Power of High Court to call for further particulars as to case stated:-** If the High Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the authority by which it was stated, to make such addition thereto or alterations therein as the Court may direct in that behalf.

**57. Procedure in disposing of case stated:-**

- (1) The High Court, upon the hearing of any such case, shall decide the questions raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded.
- (2) The Court shall send to the authority by which the case was stated, a copy of such judgment under the seal of the Court and the signature of the Registrar; and the authority shall, on receiving such copy, dispose of case conformably to such judgment.

**58. Statement of case by other Court to High Court:-**

- (1) If any Court, other than the High Court, feels doubt as to the amount of duty to be paid in respect of any instrument under proviso (a) to section 34, the Judge may draw up a statement of the case and refer it, with his own opinion thereon, for the decision of the High Court.

- (2) The High Court shall deal with the case as if it had been referred under section 55 and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the Government or such other authority specified in this behalf and another like copy to the Judge making the reference, who shall be on receiving such copy, dispose of the case conformably to such judgment.
- (3) Reference made under sub-section (1), when made by a Court subordinate to a District Court, shall be made through the District Court, and when made by any subordinate Revenue Court, shall be made through the Court immediately superior.

**59. Revision of certain decisions of Court regarding the sufficiency of stamps:-**

- (1) When any Court in the exercise of its Civil or Revenue jurisdiction or any Criminal Court in any proceedings under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898, makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section 34, the Court to which appeals lie from, or references are made by, such first mentioned Court may, of its own motion or on the application of the Collector, take such order into consideration.
- (2) If such Court, after such consideration, is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 34, or without the payment of a higher duty and penalty than those paid, it may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is, to produce the same, and may impound the same when produced.
- (3) When any declaration has been recorded under sub-section (2), the Court recording the same shall send a copy thereof to the Collector and, where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument.
- (4) The Collector may thereupon, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section 41, or in section 42, prosecute any person for any offence against the stamp-law which the Collector considers him to have committed in respect of such instrument:

Provided that-

- (a) no such prosecution shall be instituted where the amount (including duty and penalty) which, according to the determination of such Court, was payable in respect of the instrument under section 34, is paid to the Collector, unless he thinks that the offence was committed with an intention of avoiding payment of the proper duty;

- (b) except for the purpose of such prosecution, no declaration made under the section shall affect the validity of any order admitting and instrument in evidence, or of any certificate granted under section 41.

## CHAPTER VII

### Criminal Offences and Procedure

**60. Penalty for executing, etc., instrument not duly stamped:-**

- (1) Any person executing or signing otherwise than as a witness any instrument chargeable with duty, without the same being duly stamped shall for every such offence be punishable with fine which may extend to five hundred rupees.

Provided that when any penalty has been paid in respect of any instrument under section 34, section 39 or section 59, the amount of such penalty shall be allowed in reduction of the fine, if any, subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

- (2) If a share warrant is issued without being duly stamped, the Company issuing the same, and also every person who, at the time it is issued, is the Managing Director or Secretary or other principal officer of the Company, shall be punishable with fine which may extend to five hundred rupees.

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

**62. Penalty for omission to comply with Provisions of section 28:-** Any person who intends to defraud the Government.

- (a) executes any instrument in which all the facts and circumstances required by section 28 to be set forth in such instrument are not fully and truly set forth; or
- (b) being employed or concerned on or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances; or,
- (c) does any other act calculated to deprive the Government of any duty or penalty under this Act,

shall be punishable with fine which may extend to five thousand rupees.

**63. Penalty for devices to defraud the revenue:-** Any person who with intent to defraud the Government of duty, practices or is concerned in any act, contrivance or device not specially punishable under this Act or any other law for the time being in force shall be punishable with fine which may extend to one thousand rupees.

**64. Penalty for breach of rule relating to sale of stamps and for unauthorized sale:-**

- (a) any person appointed who sells stamps who disobeys any rule made under section 69, and



- (b) any person not so appointed who sells or offers for sale any stamp other than a stamp of the value of <sup>1</sup>[twenty paise] of less, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

**65. Institution and conduct of prosecutions:-**

- (1) No prosecution in respect of any offence punishable under this Act or any enactment hereby repealed, shall be instituted without the sanction of the Collector or such other officer as the Government generally, or the Collector specially authorized in that behalf.
- (2) The Government, or any officer generally or specially authorized by it in this behalf, may stay any such prosecution or compound any such offense,
- (3) The amount of any such composition shall be recoverable in the manner provided by section 46.

**66. Jurisdiction of Magistrate:-** No Magistrate other than a Magistrate whose powers are not less than those of a Magistrate of the First Class, shall try any offence under this Act.

**67. Place of trial:-** Every such offence committed in respect of any instrument may be tried in any district in which such instrument is found, as well as in any district in which offence might be tried under the Code of Criminal Procedure, 1898.

## CHAPTER VIII

### Supplemental Provisions

**68. Books, etc., to be open to inspection:-** Every public officer having in his custody any registers, books, records, papers, documents or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorized in writing by the Collector to inspect for such purpose the registers, books, papers, documents and proceedings, and to take such notes and extracts as he may deem necessary, without fee or charge.

**69. Power to make rules:-** (1) The Government may, by notification in the Gazette make rules to carry out generally the purposes of this Act.

- (2) In particulars and without prejudice to the generally of the foregoing power such rules may be for regulating-
- (a) the supply and the sale of stamps and stamped papers,
- (b) the persons by whom alone such sale is to be conducted,
- (c) the duties and remuneration of such persons, and

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<sup>1</sup> Substituted for the words "twelve Paise" by Act 29 of 1969 with effect from 21-04-1969

- (d) the fines which shall in no case exceed five hundred rupees to be incurred on breach of any rule:

Provided that such rules shall not restrict the sale of adhesive stamp of the value of<sup>1</sup> [twenty paise] of less.

- (3) All rules made under this Act shall be laid as soon as may be, after they are made, before the Legislative Assembly while it is in session for a total period of not less than 14 days which may be comprised in one session or in two or more sessions and if, before the expiry of the said period the Legislative Assembly makes any modifications in the rules or directs that any rule shall not have effect the rules shall thereafter have effect only in such modified form or be no effect, as the case may be-

- 70. Savings as to Court Fees:-** Nothing contained in this Act shall be deemed to affect the duties chargeable under any enactment for the time being in force relating to Court fees.
- 71. Savings as to certain stamps:-** All stamps in denominations of annas four or multiple thereof shall be deemed to be stamps of the value of twenty five paise, or as the case may be, multiples thereof and shall, accordingly, be valid for all the purpose of this Act.
- 72. Application of the Indian Stamp Act 1899:-** The Indian Stamp Act 1899, (Central Act 2 of 1899) as in force in the Malabar District referred to in section 5(2) of the State Re-organisation Act, 1956 (Central Act 37 of 1956) in so far as it relates to the matter specified in Entry 44 of List III of Seventh Schedule to the Constitution in respect of documents specified in Entry 91 of List I of the said Schedule shall notwithstanding anything contained in any law, extend to the whole of the State Kerala.
- 73. Repeal and Savings:-** The Indian Stamp Act, 1899 (Central Act 2 of 1899) in its application to the Malabar District referred to in section 5(2) of the State Re-organisation Act, 1956 (Central Act 37 of 1956) in so far as it relates to the matter specified in Entry 44 of List III of Seventh Schedule to the Constitution in respect of documents falling under Entry 63 of List II in the said Schedule and the Travancore-Cochin Stamp Act, 1125 (Act 1 of 1125) are hereby repealed.

Provided that such repeal shall not affect:-

- (a) the previous operation of the said enactments or anything duly done or suffered there under.
- (b) any right, privilege, obligation or liability acquired, accrued, or incurred under the said enactment;
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said enactment; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as aforesaid and any such

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<sup>1</sup> Substituted for the words "twelve Paise" by Act 29 of 1969 with effect from 21-04-1969

investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

<sup>1</sup>[THE SCHEDULE]

SCHEDULE TO KERALA STAMP ACT, 1959 (ACT 17 OF 1959)

As amended by Acts 19 of 1963, 17 of 1967, 29 of 1969, 6 of 1972, 7 of 1973, Finance Acts 19 of 1983, Finance Act 1985, Stamp Amendment Act 14 of 1988. Finance Ordinance No 9 of 1991 & Stamp Amendment Act 16 of 1991.

SL No.	Description of instrument	Proper Stamp Duty
(1)	(2)	(3)
1.	Acknowledgment of a debt exceeding twenty rupees in amount or value written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass book) or on a separate piece of paper when such book or paper is left in the creditor's possession: provided that such a acknowledgement does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property.	
	Where the amount or value exceeds Rs. 20 but does Not exceed Rs. 100.	Twenty paise
	Where it exceeds Rs. 100 but does not exceed Rs. 500	Forty paise
	Where it exceeds Rs. 500 but does not exceed Rs.1000	Sixty paise
	Where it exceeds Rs. 1000	One rupee
2.	Administration Bond, including a bond given Under section 291 or section 375 of the Indian Succession Act, 1925 (Central Act 39 of 1925) section 6 of the Government Savings Banks 1873 (Central Act 5 of 1873):	Two rupees fifty paise for every Rs. 100 or part there of the amount or value or secured
3.	Adoption Deed. That is to say, any instrument (other than will) recording as adoption or conferring of purporting to confer an authority to adopt.	Fifty rupees
4.	<b>Affidavit</b> , including an affirmation of declaration In the	Ten rupees

<sup>1</sup> The Schedule was substituted by Section 6 of Act 29 of 1969 with reference from 20-4-1969.

case of persons by law allowed to affirm or declare instead of swearing.

#### Exemptions

Affidavit or declaration in writing when made:-

- (a) As a condition on enrolment under the Air Act, 1950 (Central Act 45 of 1950) or the Army Act, 1950 (Central Act 46 of 1950) or the Navy Act, 1957 (Central Act 62 of 1957); or
- (b) For the immediate purpose of being filed or used in any Court or before the officer of any Court; or
- (c) For the sole purpose of enabling any person to receive any pension or charitable allowance.

#### 5. **Agreement or memorandum of an agreement”-**

- (a) If relating to the sale of a Bill of Exchange: One rupees
- (b) If relating to the sale of Government security or share in an incorporated company or other body corporate: One rupee for every Rs. 10,000/- or part thereof of the value of the security or share.
- (c) If not otherwise provided for: Fifteen rupees

#### 6. **Agreement relating to deposit of title deeds, pawn or Pledge, that is to say, any instrument evidencing any Agreement relating to-**

- (1) the deposit of title deeds or instruments constituting of being evidence of the title to any property whatever (other than marketable security), or
- (2) the pawn or pledge or movable property where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt:-

(a)	If such loan of debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement.	If drawn singly	*if drawn in set of 2, for each part of the set	*if drawn in set of 3, for each part of the set
		Rs. Ps.	Rs. Ps.	Rs. Ps.
(i)	If the amount secured does not exceed Rs. 500:	5.00	2.50	1.25

(ii)	If it exceed Rs. 500 but not exceed Rs. 1000:	15.00	7.50	3.25
(iii)	If it exceeds Rs. 1,000 for every Rs. 1,000 or part thereof	15.00	7.50	3.25
(b)	If such loan or debt is repayable not more than 3 months from the date of such instrument			Half the duty payable under clause (a) (i) or clause (a) (ii) or clause(a) (iii) for the amount secured.
<b>7.</b>	<b>Appointment in execution of a power</b> Whether of trustees or of property movable or immovable where made by any writing no being a Will			Seventy five rupees
<b>8.</b>	<b>Appraisement</b> or valuation made other wise than under an order a Court in the course of a suit			The same duty as a Bottomry Bond (No. 14) for such amounts
	(a) where the amount does not exceed Rs. 1,000:			
	(b) in any other case:			Thirty rupees
<b>9.</b>	<b>Apprenticeship Deed</b> , including every writing relating to the service or tuition of any apprentice, clerk or servant placed with any master to learn any profession, trade or employment, not being Articles of Clerkship (no. 11)			Ten rupees
<b>10.</b>	<b>Articles of Association of a Company</b>			One thousand rupees
<b>11.</b>	<b>Articles of Clerkship</b> or contract whereby any person first becomes bound to serve as any clerk in order to his admission as an attorney in the High Court:  Note: "Three hundred and Seventy five rupees" revised to five hundred rupees with effect from 24-2-1988 by Act 14 of 1988.			*[Five hundred rupees]
<b>12.</b>	<b>Award</b> , that is to say, any decision in writing by as Arbitrator or umpire, not being an award directing a partition on a reference made otherwise that by the order of the Court in the course of a suit-			
	(a) Where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs. 1,000:			The same duty as a Bottomry bond (No. 14) for such amount
	(b) Where it exceeds Rs. 1,000, but does not exceed Rs. 5,000:  and for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000:			Thirty rupees  One rupee and fifty paise

excess of Rs. 5,000:

12. **Bond** as defined by section 2(a), not being a debenture and not being otherwise provided for by this Act or by the Kerala Court Fees and Suits Valuation Act, 1959 (10 of 1960) or other enactment for the time being in force: Two rupees fifty paise for every Rs. 100 or part thereof the amount or value secured.

**Exemptions:**

- (a) Bail bonds and recognizance executed in criminal cases.
- (b) Bond, when executed by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.

14. **Bottomry Bond**, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage: Two rupees fifty paise for every Rs. 100 or part thereof the amount or value secured.

15. **Cancellation-** Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for: \*[One hundred rupees]

Note: "Thirty rupees" substituted by "One hundred rupees" by Act 14 of 1988 from 24-2-1988

16. **Certificate of sale** (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court or by the Government, Collector or other Revenue Officer. The same duty as on a conveyance (No. 21 or 22 as the case may be) for a consideration equal to the amount of the purchase money only.\*

Notes: Art. 16 Certificate of sale does not require surcharge duty vide G.O. (MS) w95/62/DD. Dated 12-6-1961 & G.O. (MS)552/63/DD dated 15<sup>th</sup> June 1963

17. **Certificate or other document** evidencing the right or title of the holder thereof or any other person either to any share, script or stock in or of any incorporated company or other body corporate or to be become proprietor of share script or stock in or any such company or body. Fifty paise
18. **Charter Party** that is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the Five rupees

specified purpose of the chartered whether it includes a penalty clause or not.

19. **Chitty or Kuri Variola** where the total amount subscribed exceeds Rs. 100: \*[Fifteen rupees] every Rs. 1,000/- or part thereof the total amount subscribed.\*

Notes: "Five rupees" was substituted to "Fifteen rupees" from 24-2-1988 by Act 14 of 1988. The Variola of Registered Co-operative Societies are exempted from Stamp duty vide G.O. (MS) 795/60/Agri. Dated 8-10-1960. See instructions in Review of inspection notes 1960, Pages 40 & 41.

20. **Composition Deed**, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his Creditors or whereby payment of a composition or dividend, on their debt is secured to the creditors or whereby provision is made for the continuance of the debtor's business under the supervision of inspectors or under letters of license for the benefit of his creditors. \*[One hundred rupees]

Notes: "Thirty five rupees" One hundred rupees from 24-2-1988 by Act 14 of 1988

21. **Conveyance** (as defined by section 2(d), other than a conveyance specified in No. 22, not being a transfer charged or exempted under No. 55). \*[Six rupees] for every Rs. 100 or part thereof of the amount or value of the consideration for such conveyance.

Notes: 1. "Conveyance" includes a conveyance on sale and every instrument by which property, whether movable, or immovable transferred inter vivos are sale (conveyances). In addition to the conveyance rate 6% for every Rs. 100 or part thereof, conveyance of immovable properties attracts surcharge duty at the rate of 4% for the value of consideration. Surcharge duty has to be levied in multiples of ten paise at all stages. The total stamp duty to be levied for sale in Panchayath areas at present is 10% of the value or consideration (i.e. 6%+4%)

2. This article was amended first by Ordinance No. 2 of 1988 which was replaced by Act 14 of 1988 and modified by ordinance No. 1 of 1991 read with Act 16 of 1991 and enforced from 11<sup>th</sup> day of January 1991.

3. The rate revised from 5 rupees to 6 rupees with effect from 1-8-1991 as per Finance Act 1991.

22. **Conveyance** (as defined by section 2(d), not being a transfer charged or exempted under situated within the Municipal Corporation or Municipalities. \*[Eight rupees fifty paise] for every Rs.100 or part thereof of the amount or value of the consideration

for such conveyance

Notes: 1. "Conveyance" includes a conveyance on sale and every instrument by which property, whether movable, or immovable is transferred inter vivos are sales (Conveyances) and in addition to the existing rate of 8.5% for every Rs. 100 or part thereof Surcharge duty at the rate of 4% in Municipal areas and 5% incorporation areas has also to be levied for instruments of transfer (sale or conveyance) of immovable properties under the Municipal & Corporation Acts. Surcharge duty has to be levied in multiples of ten paise at all stages. In Municipal area the stamp duty will be 12.5% (8.5+4) and in Corporation areas 13.5% (8.5+5) for sale deeds & transfers of immovable properties.

2. Conveyance of movable attracts duty as specified in article 21 irrespective of the area, and attracts no surcharge duty.

3. This article was amended first by ordinance No. 1 of 1991 read with Act 16 of 1991. The revised rate 7.5% enforced from 11-1-1990 making a uniform rate in all Municipal and corporation areas, though rate of stamp duty under this article is common.

4. The rate revised from 7.50 rupees to 8.50 rupees. The rate of stamp duty under this article is common with effect from 1-8-1991 as per Finance Act 1991.

5. Sale is the transfer of ownership in exchange for a price paid or promised to be paid and part promised and conveyance as defined by section 2 (d) of Kerala Stamp Act includes all instruments of transfer of property, whether movable or immovable or sale or otherwise not specially provided for in the schedule to the Act.

**23. Copy of extract**, certified to be a true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to Court Fees-

(i) if the original was not chargeable with duty or the duty with which it was chargeable does not exceed on rupee: Five rupees

(ii) In any other case Ten rupee

#### **Exemption**

Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.

**24. Counterpart or duplicate** of any instrument chargeable with duty and in respect of which the proper duty has been paid

(i) if the duty with which the original instrument was chargeable does not exceed \*[Rs. 15] The same duty as is payable on the original.



(ii) in any other case: \*[Fifteen rupees]

Note: Five rupees was revised to fifteen rupees with effect from 24-2-1988 vide Act 14 of 1988.

- 25. Custom Bond or Central Excise Bond-** \*[Rs. Five] for every Rs. 100 or part thereof of the amount
- (a) Where the amount does not exceed Rs. 1,000:

Note: \* “The same duty as Bottomry Bond ( No. 14) for such amount revised as “Rs. Five for every Rs. 100 or part thereof of the amount” and \*\* “Thirty rupees” revised as “Fifty rupees ” with effect from 24-2-1988 as per Act 14 of 1988.

- 26. Delivery Order** in respect of goods, that is to say, any instrument entitling any person therein named or his assigns or the holder thereof to the delivery of any goods lying in any dock or port or in any warehouse in which goods are stored or deposited on rent or hire or upon any wharf, such instrument being signed by or on behalf of the owner of such goods upon the sale or transfer of the property therein where upon the sale or transfer of the property therein where such goods exceed in, value twenty rupees:

- 27. Divorce-** instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage: Ten rupees

- 28. Certificate of enrolment in the roll of advocates** prepared and maintained by the State Bar Council under the Advocate Act, 1961 (Central Act 25 of 1961): Two hundred and fifty rupees

- 29. Exchange of property – instrument of:** The same duty as a conveyance (No. 21 or 22, as the case may be) for a consideration equal to the value of the property of the greater value as set forth in such instrument.\*

Notes: Art 29: In addition to the rate above surcharged duty @4% in Municipal and Panchayat areas; and 5% in Corporation areas has also to be levied for the consideration or greater value.

\*This article was first amended by Act 14 of 1988 and subsequently amended by Act 16 of 1991 and came into force from 11-1-1991.

The surcharge duty has to be levied in multiple of 10 paise in all stages.

- 30. Further charges – instrument of,** that is to say any The same duty as a

instrument imposing a further charge on mortgaged property-

(a) When the original mortgage is one of the description referred to in clause (a) of article 37 (i.e. with possession):

(b) When such mortgage is one of the description referred to in clause (b) of article 37 (i.e., without possession)-

(i) if at the time of execution of the instrument of further charge, possession of property is given or agreed to be given under such instrument.

(ii) if possession is not so given:

conveyance (No. 21 or 22, as the case may be) for a consideration equal to the amount of the further charge secured by such instrument.

The same duty as a conveyance (No. 21 or 22 as the case may be) for a consideration equal to the amount of the charge (including the original mortgage and any further charge already made) less the duty already paid [xxx]<sup>1</sup> on such original mortgage and further charge\*

The same duty as as Botomry Bond (No. 14) or the amount of the further charge secured by such instrument.

Notes: Art 30 Further charges f mortgage with possession requires surcharge duty at the rate of 4% on Panchayath & Municipal areas and 5% in Corporation for the consideration or value. Surcharge to be levied in multiple of Ten Paise on all stages.

- 31.** Gift – Instrument of, not being settlement or will or transfer; The same duty as a conveyance (No. 21 and 22 as the case may be)\*

Notes: Art 31:- This article was substituted by Act 14 of 1988 with effect from 12-11-1990 enforced by G.O. (P) 154/90/TD. Dated 6-11-1990. This article also attract surcharge duty@4% in Panchayat and Municipal areas and 5% in Corporation areas. Surcharge to be levied in multiples of ten paise at all stages.

- 32. Indemnity Bond:-** The same duty as a Security Bond (No. 50) for the amount.

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<sup>1</sup> Inserted by Act 6 of 1972. “other than additional duty paid in pursuance of sub-section (2) of section 3A.” With effect from 16-12-1971. This was subsequently omitted by Act 7 of 1973 with effect from 1-4-1973

**33. Lease:-** including an underlease or sub-lease and any agreement to let or sublet:-

(a) Where by such lease the rent is fixed and no premium is paid or delivered.

The same time at a Bottomry Bond (No. 14) for the whole amount payable or deliverable under such lease.

(i) Where the lease purports to be for a term of less than one year.

(ii) Where the lease purports to be for a term of not less on year but not more than 5 years:-

The same duty as a Bottomty Bond (No. 14) for the amount or value of the average annual rent reserved.

(iii) Where the lease purports to be for a term exceeding 5 years but not exceeding 10 years:

The same duty as a conveyance (No. 21 or 22, as the case may be) for a consideration equal to the amount or value of the average annual rent reserved.

(iv) where the lease purports to be for term exceeding 10 years but not exceeding 20 years:

The same duty as a conveyance (No. 21 or 22, as the case may be) for a consideration equal to twice the amount or value of the average annual rent reserved.

(v) Where the lease purports to be for a term exceeding 20 years but not exceeding 30 years:

The same duty as a conveyance (No. Or , as the case may be) for a consideration equal to three times the amount or value of the average annual rent reserved.

(vi) Where the lease purports to be for a term exceeding 30 years but not exceeding 100 years:

The same duty as a conveyance (No. 21 or 22, as the case may be) for a consideration equal four times the amount or

value of the average annual rent reserved.

- (vii) Where the lease purports to be for a term exceeding 100 years or in perpetuity:

The same duty as a conveyance (No. 21 or 22, as the case may be) for a consideration on equal to one-sixth of the whole amount or rents which would be paid or delivered in respect of the first fifty years of the lease.

- (viii) Where the lease does not purport to be for any definite term:

The same duty as a conveyance (No. 21 or 22, as the case may be) for a consideration equal to three times the amount or value equal of the average annual rent which could be paid or delivered for the first ten years if the lease continued so long.

- (b) Where the lease is granted for a fine or premium or for money advanced and where no rent is reserved:

The same duty as a conveyance (No. 21 or 22, as the case may be) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.

- (c) Where the lease is granted for a fine or premium of for money advanced in addition to rent reserved:

The same duty as a conveyance (No. 21 or 22, as the case may be) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease in addition to the duty which would have been payable on such

lease if no fine or problem or advance had been paid or delivered:

Provided that in any case where an agreement to lease is stamped with ad valorem stamp required for a lease and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed one rupee ninety five paise.

Explanation:- When a lessee undertakes to pay any recurring charge, such as Government revenues, the landlord's share of cases or the owner's share of Municipal rates or taxes which is by law recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent.

Notes:- Art 33.: Lease in Perpetuity and transfer of lease in perpetuity attracts surcharge duty @4% in Panchayath and Municipal areas and 5% in Corporation areas besides stamp duty. Surcharge has to be levied in multiples of ten paise at all stages. The definition of Lease in Stamp Act section 2(1) is not self sufficient. It says that lease is a lease of immovable property and includes something else. A document has to be stamped as a lease if it falls in the definition of a lease as contained in the Transfer of property Act. A document, which does not falls within the definition of lease as contained in the T.p. Act, but falls within the definition of lease as contained in the Kerala Stamp Act, has to be stamped as a lease. The term immovable property has been defined by General Clauses Act as "Immovable property shall include land, benefits to arise out of land, and

things attached to earth, or permanently fastened to any thing attached to earth” Section 3 of Transfer or Property Act has also defined immovable property.

Stamp duty and registration fee should be levied separately for the fine/premium and advance amounts in cases where they are shown as paid in lease deeds. Fine is a sum of money paid by a tenant at his entrance into the land or for the renewal of a lease, whereas premium as ordinarily understood is a lumpsum payment made by the lessee to the lessor as price for lease.

Government in Letter No. 14586/E3/82/TD. Dated 24-2-1983 of Taxes (E) Department has ordered as follows:- “In supersession of the instruction issued in Government Letter No. 18769/E2/75/TD. Dated 15-12-1975 and in accordance with decision of the Delhi High Court in the AIR 1980, Delhi 249, the following principles may be observed while classifying the lease deeds.”

1. “Duty” is not chargeable under Art 35(c) of schedule 1-A of the Indian Stamp Act, 1899 on the amounts of security deposit/advance, which is refundable on determination of the lease, in addition to the duty on rent reserved under Article 35(a) Schedule
2. It will not make any difference the chargeability or duty, if such deposit/advance is adjustable in rent / other charges / dues payable under the lease.
3. The amount of security deposit paid for the due performance of the contract of lease is chargeable under Art 57\*\* of the schedule read with section 5 of the Act”  
(In this case Stamp duty is to be levied for lease as well as to the Security Bond)

Note:- \*\*Art. 57 of Indian Stamp Act corresponding to Art.50 of schedule to Kerala Stamp Act, 1959.

Lease deed has to be classified in accordance with the principles mentioned above vide the above Government direction.

LEASE AND LICENSE:- License according to Indian Easement Act, 1882 is “Where one person grants to another or to a definite number of other persons, a right to do, or continue to do, in or upon the immovable property of the grantor, something which would in the absence of right, be unlawful, and such right does not amount to an easement, or an interest in the property, the right is called a license.”

There is marked distinction between a license and a lease. If a document gives only right to use the property in a particular way or under thereof, it will be a license. The legal possession therefore, continues to be with the owner of the property; but the licensee is permitted to make use of the premises for a particular purpose; but for the permission, his occupation will be unlawful. It does not create in his favour any estate or interest in the Property.

Where under a Lease Deed executed in consideration of the advance made by the

lessee to discharge subsisting encumbrances, the lessee was empowered to withhold from the stipulated rent a sum of money and appropriate the same in liquidation of the sum advanced by him, the document becomes chargeable with stamp duty under Art 33(c).

Article 33(b) provides duty on a lease granted for a fine or premium or for money advanced only and where no rent is payable. Article 33 (c) provides duty on a lease where both fine or premium or advance paid in addition to rent reserved and both has to be classified as per directions contained in Govt: letter No. 14586/E3/82/TD.Dated 24-2-1983.

- 34. Letter of allotment of shares** in any company or proposed \*[One rupee] company or in respect of any loan to be raised by any company or proposed company:

\*The rate revised from forty paise to one rupee with effect from 24-2-1988 by Act 14 of 1988

- 35. Letter license**, that is to say, any agreement between a debtor and his creditors that the letters shall for a specified term suspend their claims and allow the debtor to carry on business at his own discretion:

\*The rate revised from forty paise to one rupee with effect from 24-2-1988 by Act 14 of 1988

- 36. Memorandum of association of a company:-**

(a) if accompanied by articles of association under the Companies Act, 1956 (Central Act 1 of 1956): Five hundred rupees.

(b) if not so accompanied: One thousand rupees

- 37. Mortgage deed**, not being an agreement relating to deposit of title deeds, pawn or pledge (No. 6), Bottomry Bond (No. 14), Mortgage of a crop (No. 38) Respondentia Bond (No. 49) or Security Bond (No. 50)

(a) When possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given: The same duty as a conveyance (No. 21 or 22 as the case may be) for a consideration equal to the amount secured by such deed.\*

(b) when possession is not given or agreed to be given as aforesaid: The same duty as a Bottomry Bond (No. 14) for the amount secured by such deed.

**Explanation:-** A mortgagor who gives or has given to the mortgagee a power of attorney to collect rents or gives or has given to the mortgagee a lease of the property mortgaged or part thereof, is deemed to give possession thereof within the meaning of his article.

Notes:- Article 37(a) Mortgage with possession attracts surcharge duty @ 4% in Panchayath and Municipal areas and 5% in Corporation areas for the amount secured. Surcharge has to be levied in multiples of ten paise in all stages.

- (c) When a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above mentioned purpose where the principal or primary security is duty stamped, for very sum secured not exceeding Rs.1,000: Five rupees

#### **Exemption**

Instruments executed by persons taking advances from Government to secure the re-payment of such advances.

- 38. Mortgage of a crop**, including any instruments evidencing an agreement to secure the re-payment of a loan made upon any mortgage of a crop whether any crop is or is not in existence at the time of the mortgage.

- (a) When the loan is repayable not more than 3 months from the date of the instrument-

for every sum secured not exceeding Rs. 200 Fifty paise

for every Rs.200 or part thereof secured in excess of Rs.200. Fifty paise

- (b) when the loan is repayable more than 3 months but not more than 18 months from the date of the instrument:-

for every sum secured not exceeding Rs.100: Seventy five paise

for every Rs.100 or part there of secured in excess or Rs.100/-: Seventy five paise

- 39. Notarial Act**, that is to say, any instrument, endorsement, note, attestation certificate, or entry not being a Protest (No. <sup>1</sup>[Fifteen rupees]

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<sup>1</sup> Substituted for words "Five rupees" by Act 14 of 1988 w.e.f. 24-2-1988.

Note:- Partition between brothers & sisters would come within the purview of art 42(1) leviable with stamp duty of 2.5% rate. (Govt. Letter No. 54170/E2/91/TD. Dated 2-5-1992)



45) made or signed by a notary public in the execution of the duties of his office by any other person lawfully acting as a notary public:

**40. Note or Memorandum**, sent by a broker or agent to his principal intimating the purchase or sale on account of such principal-

(a) of any goods exceeding in value twenty rupees:

Seventy-five paise

(b) of any stock or marketable security exceeding in value Rs.20:

Subject to a maximum of fifty Rs. 10,000 or part thereof of the value of the stock or security.

**41. Note of protest by the Master of a ship:**

Five rupees

**42. Partition** – Instrument of [as defined by section 2 (k)]:

(i) Where the partition is among all or some of the family:

The same duty as a Bottomry Bond (No. 14) for the amount of the value of the separated share or shares of the property.

(ii) in any other case

Five rupees for every Rs.100 or part thereof the amount of the value of the separated share or shares of the property.\*

**Explanation:-** Family means husband, wife, children and the legal heirs of the deceased children if any, as the case may be.

N.B. The largest share remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than any of the other shares; then one of such equal shares) shall be deemed to be that from which the other shares are separated:

Provided always that:-

- (a) When an instrument of partition containing as agreement to divide property in severality is executed and partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than two rupees thirty paise;
- (b) Where land is held or Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at twenty five times the annual revenue;
- (c) Where a final order for effecting a partition passed by any Revenue Authority or any Civil Court or an award by an Arbitrator directing a partition is tamped with the stamp required for an instrument of partition and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed two rupees thirty paise.

Notes:- Art 42. This article was substituted by Act 14 of 1988 but was not enforced till 10-1-1991 and the same was again amended by Ordinance No. 5 of 1990 which was repealed by Ordinance No. 1 of 1991 replaced by Act 16 of 1991 which came in to force from 11<sup>th</sup> April 1991.

**43. Partnership-**

A. instrument of-

- (a) where the capital of the partnership does not exceed Rs. 1,000: One hundred rupees.
- (b) in any other case: <sup>1</sup>[One thousand rupees]

B. Dissolution of

One hundred rupees

**44. Power of attorney** (as defined by section 2(p), not being a proxy)]

- (a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents: Five rupees
- (b) when authorizing one person or more to act in a single transaction other than the case mentioned in clause (a): Ten rupees
- (c) when authorizing not more than 5 persons to act jointly and severally in more than one transaction or generally: Thirty rupees
- (d) when authorizing more than 5 but not more than 10

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<sup>1</sup> Substituete for words “Two hundred rupees” by Kerala Finance Act 23 of 1991. w.e.f. 1-4-1991.

persons to act jointly and severally more than one transaction or generally:

- (e) when gives for consideration and authorizing the attorney to sell any immovable property: One hundred rupees
- (f) in any other case: The same duty as a conveyance (No. 21 or 22, as the case may be) for the amount of the consideration.  
Thirty rupees for each person authorized.

**Explanation:-** For the purpose of this article, more persons than one when belonging to the same firm shall be deemed to be one person.

Notes: Art. 44 (a) & (b) Special power of attorney granted for procuring the registration of a document and authorizing to execute application for Transfer of Revenue registry (Pokkuvaravu form) shall be levied with an aggregate amount of stamp duty of (Rs.5 + Rs.10) i.e. Rs. 15 under article 44 (a) & (b) Kerala Stamp Act, 1959.

- 45. Protest of bill or note,** that is to say, any declaration in writing made by a notary public or other person lawfully acting as such, attesting the dishonor of a bill of exchange or promissory note: Five rupees
- 46. Protest by the Master of ship,** that is to say, any declaration of particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages and every declaration in writing made by him against the charters or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a notary public or other person lawful acting as such: Five rupees
- 47. Re conveyance of mortgaged property-**
- (a) if the consideration for which the property was mortgaged does not exceed Rs.1,000. The same duty as a conveyance (No. 21 or 22, as the case may be) for the amount of such consideration as set forth in the re conveyance.
- (b) in any other case: One hundred and fifty rupees in the case of immovable properties

situated in the areas referred to in article 22 and one hundred rupees in the case of immovable properties situated in other areas.

Notes:- Art.47 Re announcement of mortgage rights over mortgaged properties are reconveyance. C.M.P.No. 23/83 Dated 17-2-1986 of Kerala High Court and Board's Proceedings Nos. D. Dis 5209/85/LRA(3) Dated 7-11-1986. D. Dis. 44948/88/LRA(3) Dated 14-12-1988 & D. Dis. 44018/88/LRA(3) Dated 4-4-1989 and other similar decisions.

**48. Release**, that is to say, any instrument (not being such a release as is provided for by section 24), whereby a person renounces a claim upon another person or against any specified property-

(a) when such release operates in favour of his or her spouse or children.

The same duty as a Bottomry Bond (No. 14) for such amount or value as set forth in the release.

(b) in any other case:

The same duty as a conveyance (No. 21 or 22, as the case may be) for such amount or value as set forth in the release.

1. Notes: **Rate of Stamp Duty for Article 48 "Release" From 1-9-1960 to 9-6-1983**

**49. Release**, that is to say, any instrument (not being such a release as is provided for by section 24), whereby a person renounces a claim upon another person or against any specified property-

(a) if the amount or value of the claim does not exceed Rs.1,000/-

The same duty as Bottomry Bond (No. 14) for such amount or value as set forth in the release)

Thirty rupees

(b) in any other case:

2. with effect from 10-6-1983 to 11-11-1990 (Vide Finance ordinance No. 20 of 1983 Published in Kerala Gazette dated 13-6-1983)

Release\*\*\*\*\*

(a) When such release operates in favour of his or her

spouse or children

- (i) if the amount or value of the claim does not exceeds Rs.1,000/- The same duty as a Bottomry Bond (No. 14) for such amount or value as set forth in the release.
- (ii) if the amount or value of the claim exceeds Rs.1,000/- Thirty rupees
- (b) in any other case The same duty as a conveyance (No. 21 or 22, as the case may be) for such amount or value as set forth in the release.

2. with effect from 12-11-1990 to 10-1-1991 (Vide ordinance No. 5 of 1990 read with G.O. (P) 157/90/TD Dated 6-11-1990.

Release\*\*\*\*\*

- (a) when such release operates in favour of his or her spouse or children: The same duty as Bottomry Bond (No. 14) for such amount or value as set forth in the release.
- (b) in any other case The same duty as a conveyance (No. 21 or 22, as the case may be) for such amount or value as set forth in the release.

4. With effect from 11-1-1991 onwards vide Kerala Stamp (Amendment) ordinance No. 1 of 1991 replaced by Act, 16 of 1991 Kerala Stamp (Amendment Act) 1991.

Release\*\*\*\*\*

- (a) when such release operates in favour of his or her spouse or children: The same duty as Bottomry Bond (No. 14) for such amount or value as set forth in the release.
- (b) in any other case The same duty as a conveyance (No. 21 or 22, as the case may be) for such amount or value as set forth in the release.

Special note: Surcharge duty is not assessable to release coming under Art 48(a). Surcharge is levied on instruments coming with in the scope of Art 48 (b) from 11-11-1988 at the rate of 4% Panchayath and Municipal areas 5% in Corporation areas for the consideration. Surcharge duty to be levied in multiple of ten paise in a stage.

49. **Respondentia Bond**, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination: <sup>1</sup> [Five rupees for every Rs.100/- or part thereof of the amount of the loan secured.]
50. **Security Bond or mortgage deed**, executed by way of security for the due execution of an office or to account for money or other property received by virtue thereof or executed by a surety to secure the due performance of a contract-
- (a) when the amount secured does not exceed Rs.1,000/- <sup>2</sup>[ Five rupees for every Rs.100/- or part thereof of the amount of secured.]
- (b) in any other case <sup>3</sup>[Sixty rupees]

### Exemptions

Bond or their instruments, when executed-

- (a) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital, or any other object of public utility, shall not be less than a specified sum per mensem;
- (b) executed by persons taking advances from Government for agricultural purposes or by their sureties as security for the repayment of such advances;
- (c) executed by officers of Government or their sureties to secure the due execution of an office or the due accounting for money or other property received by virtue thereof.

[51. Settlement-]

- A Instrument of (including a deed of dower): The same duty as Bottomry Bond (No 14) for a sum equal to the amount or value of the property settled as set forth in the instrument.

Exemption

Deed of dower executed on the occasion of a marriage between Mohammadans

Provided that where as agreement of settle is stamped with the stamp requires for an instrument of settlement and an instrument of settlement in pursuance of such agreement is subsequently executed,

<sup>1</sup> Substituted by Act 14 of 1988 w.e.f 24-2-1988

<sup>2</sup> Substituted by Act 14 of 1988 w.e.f 24-2-1988

<sup>3</sup> Substituted by ibid w.e.f 24-2-1988

the duty on such instrument shall not exceed five rupees.

**B** Revocation of:

The same duty as Bottomry Bond (No 14) for a sum equal to the amount or value of the property settled as set forth in the instrument of revocation, but not exceeding fifty rupees.

Notes:- Art 51 – The rate of stamp was raised to “The same duty as a Conveyance (No. 21 or 22 as the case may be) for “Settlement” and as “the same duty as conveyance ” (21 or 22 as the case may be) but not exceeding One hundred rupees” for Revocation introduced by Ordinance No. 2 of 1988 replaced by Act 14 of 1988 has not been implemented by the Government so far. The above amendment allowed to natural death. Old rte of “Bottomry Bond” rate for settlement and maximum Rs.50/- for revocation prevailing in the Act 17 of 1959 exists in force.

- 52. Shipping order** for or relating to the conveyance of goods on board of any vessel The rupees for every Rs. 100 or part thereof the nominal amount of the share specified in the warrant.
- 53. Surrender of lease**
- (a) when the duty with which the lease is chargeable does not exceed fifty rupees. The duty with which such lease is chargeable
- (b) in any other case: <sup>1</sup>[One rupee]
- 55. Transfer** (whether with or without consideration) <sup>1</sup>[Fifty paise for every One hundred rupees or part thereof of the amount of the debenture]
- (a) of debentures, being marketable securities, whether the debenture is liable to duty or not: One rupee for every hundred rupees or part thereof of the amount of the debenture stock
- (b) of debenture stocks:
- (c) of any interest secured by a bond, mortgage deed or policy of insurance The duty with which such bond, mortgage deed or policy of insurance is
- (i) if the duty on such bond, mortgage deed or policy does

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<sup>1</sup> Revised rates effected from 24-2-1988 by Act 14 of 1988

not exceed <sup>1</sup>[fifty rupees;]

policy of insurance is chargeable

<sup>1</sup>[fifty rupees;]

(ii) in any other case;

Forty rupees

(d) of any property under the Administrators General Act, 1963 (Central Act 45 of 1963) section 22,

<sup>1</sup>[fifty rupees] or such smaller amount as may be charged under clause (a) to (c) of this article.

(e) of any trust property without consideration from one trustee to another trustee or from a trustee a beneficiary:

#### Exception

##### Transfer by endorsement

(a) of a bill or exchange, cheque or promissory note;

(b) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods;

(c) of a policy of insurance;

(d) of securities of the Central Government

**56. Transfer of lease** by way of assignment and not by way of under lease.

The same duty as conveyance (No. 21 or 22, as the case, may be) for a consideration equal to the amount of the consideration for the transfer.

#### **57. Trust\***

**A Declaration of-** of or concerning any property when made by any writing not being a Will:

The same duty as conveyance (No. 21 or 22, as the case, may be)

**B Revocation of-** of or concerning any property when made by any instrument other than a Will:

of or concerning any property when made by any

Notes:- Art 57 Substituted by Act 14 of 1988 and implemented with effect from 12-11-1990

**58. Warrant for goods,** this is to say, any instrument evidencing the title of any person therein named of his assigns or the holder thereof to the property in any goods lying in or upon any dock, warehouse or wharf

One rupee fifty paise



As per entry No. 61 of the Union list of the Constitution of India following instrument shall be chargeable with duty of the amount indicated in Schedule I of the India Stamp Act 1899 and it extends to the whole of the State of Kerala. (Vide Section 72 of the Kerala Stamp Act 1959)

Present duty of the said instruments is noted against each.

THE INDIAN STAMP ACT, 1899

SCHEDULE I

Description of Instruments			Proper Stamp Duty
**	**	**	**
13	<b>Bill of exchange</b> as defined by Section 2(2), not being a Bond, Bank-note or currency note:-		
(a)	**	**	**
(b)	where payable not otherwise than on demand:-		
(i)	where payable not more than three months after date or sight-		
	if the amount of the bill or note does not exceed Rs.500;		One rupees fifty paise
	if it exceed Rs.500 but does not exceed Rs.1,000;		Two rupees fifty paise
	and for every additional Rs.1,000 or part thereof in excess of Rs.1,000,		Two rupees fifty paise
(ii)	where payable more than three months but not more than six months after date or sight:-		
	if the amount of the bill or note does not exceed Rs.500;		Two rupees fifty paise
	if it exceed Rs.500 but does not exceed Rs.1,000;		Five rupees
	and for every additional Rs.1,000 or part thereof in excess of Rs.1,000;		Five rupees
(iii)	Where payable more than six months but not more than nine months after date or sight:-		
	if the amount of the bill or note does exceed Rs.500		Three rupees seventy-five paise
	if it exceed Rs.500 but does not exceed Rs.1,000;		paise
	and for every additional Rs.1,000 or part thereof in excess of Rs.1,000;		Seven rupees fifty paise
			Seven rupees fifty paise
(iv)	where payable more than nine months but not more than one year after date or sigh:-		
	if the amount of the bill or note does exceed Rs.500		
	if it exceed Rs.500 but does not exceed Rs.1,000;		Five rupees
	and for every additional Rs.1,000 or part thereof in excess of Rs.1,000;		Ten rupees
(c)	Where payable at more than one year after date or		Ten rupees

sight:-

if the amount of the bill or note does exceed Rs.500

if it exceed Rs.500 but does not exceed Rs.1,000;

and for every additional Rs.1,000 or part thereof in excess of Rs.1,000;

Ten rupees

Twenty rupees

Twenty rupees

**14. Bill of Lading** (including a through bill of lading)

[Two rupees]<sup>1</sup>

N.B:- If a bill of lading is drawn in parts, the proper stamp thereof must be borne by each one of the set.

**Explanations**

(a) Bill of lading when the goods therein described are received at a place within the limits of any port as defined under the Indian Ports Act, 1889 (10 of 1889), and are to be delivered at another place within the limits of the same port.

(b) Bill of lading when executed out of India and relating to property to be delivered in India.

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**27. Debenture** (Whether a mortgage, debenture or not), being a marketable security transferable-

(a) by endorsement or by a separate instrument of transfer:-

where the amount does not exceed Rs.10.

Twenty paise

where it exceeds Rs.10 and does not exceed Rs.50

Forty paise

Ditto 50 ditto 100

Seventy five paise

Ditto 100 ditto 200

One rupee fifty paise

Ditto 200 ditto 300

Two rupees twenty five paise

Ditto 300 ditto 400

Three rupees

Ditto 400 ditto 500

Three rupees seventy five paise

Ditto 500 ditto 600

Four rupees fifty paise

<sup>1</sup> Substituted by Act 32 of 1994 for "One Rupees" with effect from 13-5-1995. Published in the Gazette of India Extra Ordinary – Part II Section I. Dated 13-5-1994.

Ditto	600	ditto	700	Five rupees twenty five paise
Ditto	700	ditto	800	Six rupees
Ditto	800	ditto	900	Six rupees seventy five paise
Ditto	900	ditto	1,000	Seven rupees fifty paise
And every Rs.500 or part thereof in excess of Rs.1,000				Three rupees seventy five paise

(b) by delivery-

Where the amount or value of the consideration for such debenture as set forth therein does not exceed Rs.50;

Where it exceeds Rs.50 but does not exceed Rs.100

Ditto	100	ditto	200	One rupee fifty paise
Ditto	200	ditto	300	Three rupees
Ditto	300	ditto	400	Four rupees fifty paise
				Six rupees
Ditto	400	ditto	500	Seven rupees fifty paise
Ditto	500	ditto	600	Nine rupees
Ditto	600	ditto	700	Ten rupees fifty paise
Ditto	700	ditto	800	Twelve rupees
Ditto	800	ditto	900	Thirteen rupees fifty paise
Ditto	900	ditto	1,000	Fifteen rupees.

and for every Rs.500 or part thereof in excess of Seven rupees fifty paise. Rs.1,000

Explanation:- The term "Debenture" includes any interest coupons attached thereto but the amount of such coupons shall not be included in estimating the duty.

Exemption

A debenture issued by an incorporated Company or other body corporate in terms of a registered mortgage deed, duly stamped in respect of the amount of debentures to be issued thereunder, whereby the Company or body borrowing makes over, in whole or in part, their property to trustees for the benefit of the debenture holders:-

Provided that the debentures so issued are expressed to be issued in terms of the said mortgage-deed.

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37. **Letter of Credit**, that is to say, any instrument by which on Two rupees person authorizes another to give credit to the person in whole favour it is drawn

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**47. Policy of Insurance****A. Sea-Insurance (See Section 7)-**

(1) for or upon any voyage-

	If drawn	If drawn in
	Singly	duplicate for
		each part

(i) Where the premium or consideration does not exceed the rate of one-eighth per centum of the amount insured by the policy;

	Ten paise	Five paise
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(ii) In any other case, in respect of every full sum of one thousand five hundred rupees and also any fractional part of one thousand rupees insured by the policy;

	Ten paise	Five paise
--	-----------	------------

(2) for time-

(iii) In respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy-

	Fifteen paise	Ten paise
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Where the insurance shall be made for any time not exceeding six months;

	Twenty five	Fifteen
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B:- Fire Insurance and other classes of insurance, not elsewhere included in this Article, covering goods, Merchandise, Personal Effects, Crops and other property against loss or damage-

	paise	paise
--	-------	-------

(1) In respect of an original policy-

(i) when the sum insured does not exceed Rs.50,000;

	Fifty paise
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(ii) in any other case and

	One rupees
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(2) and in respect of each receipt for any payment of a premium on any renewal of an original policy.

	One-half of the duty payable in respect of the original policy in addition to the amount, if any chargeable under No. 53.
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**C - Accident and Sickness Insurance-**

(a) against railway accident, valid for a single journey only

	Ten paise
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**Exemption**

When issued to a passenger traveling by the intermediate or the third class in any railway:-

(b) in any other case-for the maximum amount which may become payable in the case of any single accident or sickness where such amount does not exceed Rs.1,000 and also where such amount exceeds Rs.1,000 for

every Rs.1,000 or part thereof.

Provided that in case of a policy of insurance, against death by accident when the annual premium payable does not exceed Rs.2.50 per Rs.1,000 the duty on such instrument shall be ten paise for every Rs.1,000 or part thereof, of the maximum amount which may become payable under it.

Ten paise

CC- Insurance by way of indemnity against liability to pay damages on account of accidents to workmen employed by or under the insurer or against liability to pay compensation under the Workmen's Compensation Act, 1923 (8 of 1923), for every Rs.100 or part thereof payable as premium.

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If drawn Singly	If drawn in duplicate, for each part
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D - Life Insurance of Group Insurance or other Insurance not specifically provided for, except such a re-insurance, as is described in Division E of this article:-

Fifteen paise	Ten paise
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(i) for every sum insured not exceeding Rs.250

Twenty five paise	Twenty paise
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(ii) for every sum insured exceeding Rs.250 but not exceeding Rs.500;

Forty paise	Twenty
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(iii) For every sum insured exceeding Rs.500 but not exceeding Rs.1,000 and also for every Rs. 1,000 or part thereof in excess of Rs.1,000.

paise

NB – If a policy of Group Insurance is renewed or otherwise modified whereby the sum insured exceeds the sum previously insured on which stamp-duty has been paid, the proper stamp must be borne on the excess sum so insured.

E – Re-Insurance by an Insurance, which has granted a policy of the nature specified in Division A or Division B of this Article with another company by way of indemnity of guarantee against the payment on the original insurance of a certain part of the sum insured thereby,

One quarter of the duty payable in respect of the original insurance but not less than ten paise or more than one rupee.

Provided that if the total

amount of duty payable is not a multiple of five paise, the total amount shall be rounded off the next higher multiple of five paise.

### General Exemption

Letter of cover or engagement to issue a policy of insurance.

Provided that unless such letter or engagement bears the stamp prescribed by this Act for such policy, nothing shall be claimable thereunder, nor shall it be available for any purpose, except, to compel the delivery of the policy therein mentioned.

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52. **Proxy** empowering any person to vote at any one election of the members of a district or local board or of a body of Municipal Commissioners, or at any one meeting of (a) members of an incorporated company or other body corporate whose stock, or funds is or are divided into shares and transferable. (b) a local authority, or (c) proprietors, members or contributors to the funds of any institution:- Thirty paise
53. **Receipt** (as defined by Section 2(23)) for any money or other property, the amount or value of which exceeds [five hundred]<sup>1</sup> [One Rupee]<sup>2</sup>

### Exemptions

Receipt:-

- (a) endorsed on contained in any instrument duly stamped or any instrument exempted under the proviso to section 3 (instruments executed on behalf of the Government) or any cheque or bill of exchange payable on demand acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal money, interest or authority or other periodical payment thereby secured;
- (b) for any payment of money without consideration;
- (c) for any payment of rent by a cultivator on account of land assessed to Government Revenue, of (in the States of Madras, Bombay and Andhra as they existed immediately before the 1<sup>st</sup> November, 1956), of Inam lands,
- (d) for pay or allowances by non-commissioned or petty officers, soldiers, sailors or airmen of the Indian military, naval or air forces, when serving in such capacity, or by mounted police-constables;
- (e) given by holders of family certificates in cases where the person from whose pay or allowance, the sum comprised in the receipt has been assigned is a non-commissioned or petty officer, soldier, sailor or airman of nay of the said forces, and serving in such capacity;
- (f) for persons or allowances by persons receiving such pensions or allowances in respect of their services as such non-commissioned or petty officers, soldiers, sailors

<sup>1</sup> Substituted by Act 32 of 1994 for Twenty Rupees with effect from 13-5-1995.

<sup>2</sup> Substituted by Act 32 of 1994 for Twenty paise with effect from 13-5-1995.

or airman, and not serving the Government in any other capacity;

- (g) given by a headman or lambardar for land-revenue of taxes collected by him;
- (h) given for money or securities for money deposited in the hands of any banker, to be accounted for:

Provided that the same is not expressed to be received of, or by the hand of any other than the person to whom the same is to be accounted for:

Provided also that this exemption shall not extend to a receipt or acknowledgement for any sum paid or deposited for, or upon a letter of allotment of a share, or in respect of a call upon any scrip or share of, or in any incorporated company or other body corporate or such proposed or intended company or body or in respect of a debenture being a marketable security. (See also Policy of Insurance No.47B(2)).

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**62. Transfer** (where with or without consideration:-)

- (a) of shares in an incorporated company or other body corporate;

Seventy-five paise for every hundred rupees or part thereof of the value of the share.

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