

The Kerala Stamp Act, 1959

ACT 17 OF 1959

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***THE KERALA STAMP ACT, 1959 ACT 17 OF 1959 Amended by Acts 19 of 1963, 17 of 1967, 29 of 1969, 6 of 1972, 21 of 1972, 7 of 1973, 19 of 1983, 14 of 1985, 14 of 1988, 16 of 1991, 23 of 1991, 19 of 1994, 23 of 1996 and 1 of 2004.**

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.

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

(a) "bond" includes—

(i) any instrument whereby 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 in the territories of the State of Kerala when such instrument was executed, or, where several persons executed the instrument at different times, first executed.

* Published in K.G. Ex. No.52 dt. 9-6-1959.

** Date of commencement: 1-9-1960. The word "paise" was substituted for "Naya paise" wherever it occurred by Act 17 of 1967.

(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, means "signed" and "signature";

*(ff) "fair value of land" means the fair value of land fixed under section 28A.

(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;

(k) "instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property in severability, 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;

* Inserted by Act 19 of 1994 published in K.G. Ex. No. 784 dt. 29-7-1994.

(vi)

(vii) any writing on an application for a lease intended to signify that the application is granted; and 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; 1

(mm) [x x x x]

(n)

(o)

(p)

(q) "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; "paper" includes vellum, parchment or any other material on which an instrument may be written; "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; "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 made for the conveyance, by water, of human beings or property.

l. Clause 'mm' Omitted by Act 16, of 1991 Pub. in K.G. Ex. No. 506. dt. 11-4-1991.

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 the 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—

(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 the 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 or this or any other State Government, in cases 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, inte rest, share or property of in any ship or vessel.

1[3A. x x x x]

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 princi pal instrument only shall be chargeable with the duty prescribed in the Schedule for the conveyance, mortgage, or settlement, and each of the other instrument shall be chargeable with a duty of 2[One hundred rupees] instead of the duty, if any, prescribed for it in the 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 determi-ned 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.

1. Omitted by Act 7 of 1973 2. Substituted by Act 23 of 1996

6. Instrument 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 thereunder are different, be chargeable only with the highest of such duties:

Provided that nothing contained in this Act shall render chargeable with duty exceeding 1[One hundred rupees] a counter-part or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

2[Explanation [x x x x]

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 that 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 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 anything 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, sub-division or otherwise.

1. Substituted by Act 23 of 1996. No. 358 2. Omitted by Act 7 of 1973.

(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 therein, and all such bonds or other securities shall be valid, whether the same are stamped or not.

(3) In the case of wilful 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 amount of duty payable, and a like 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 of 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 member of such class, are chargeable; and

(b) provide 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) Except 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, namely :--

(a) instruments chargeable with the duty of [^]twenty paise } and less : 1[(b) certificate of enrolment in the roll of the Advocates maintained by the State Bar Council];

(c) notarial acts.

(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 of his firm with the true date of his so writing, or in any other effectual manner.

13. Instrument 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 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 stamp 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.

15. Instruments written contrary to S. 13 or 14 deemed unstamped. — Every instrument written in contravention of section 13 or section 14 shall be deemed to be unstamped. 1. Substituted by Act 29 of 1969.

1 [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—

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

(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 the 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 therefore, 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 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 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, 1. Substituted by Act 17 of 1967. in the same manner and at the same time and by the same persons as though such instrument were an 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 as chargeable with advalorem duty in 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 the 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, 1899 (Central Act 11 of 1899) 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 advalorem duty 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 date of the instrument.

22. Effect of statement of rate of exchange or average price— Where 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) marks redeemable or qualifies a duly 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 any 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 the transfer is chargeable with advalorem 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 of 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 [x x x] 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. 1. Omitted by Act 7 of 1973.

(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 purpose of this Act be deemed to be—

(a) Where the sum is payable for 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 matter 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: 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 part of the rent it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp duty,—

(a) When the lease has been granted by or on behalf of the Government, at such amount or value as the 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 other person, at twenty thousand rupees a year: And the whole amount of such royalty or share whatever it may be, shall be claimable 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 execution.

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.

1[28A. Fixation of fair value of land.-

(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.

(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 sub-section

(3), appeal to the Collector]. 1. S.28A Omitted by Act 16 of 1991 pub. in K.G. Ex. No. 506 dt. 11-4-1991 and inserted by Act 19 of 1994.

29. Direction as to duty in case of certain conveyances.--

(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 advalorem 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 him self and others, or wholly for others is conveyed in 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 advalorem 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 advalorem duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser. Where a person, having contracted, for the purchase of, any property but not having obtained a conveyance thereof, contracts to sell the 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-purchaser shall be chargeable with advalorem duty in respect only of the consideration paid by such sub-purchaser, without regard to the amount of value of the original consideration; and the conveyance of the residue, if any, of such property to the original purchaser shall be chargeable with advalorem duty in respect only of the excess of the original considerations over the aggregate of the considerations 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 advalorem 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 Bond) No. 6

(Agreement relating to deposit of title deeds, pawn or pledge). No. 13

(Bond). No. 14

(Bottomary Bond), No. 25

*(Customs Bond or 1 {Central Excise Bond} No. 30

*(Further Charge). No. 32

*(Indemnity Bond). No. 37

*(Mortgage deed). No. 48

*(Release). No. 49

*(Respondentia Bond). No. 50

*(Security Bond or Mortgage deed). No. 51

*(Settlement). No. 55

*(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 lease or agreement to lease by the lessee or intended lessee;

(c) in the case of a counterpart of lease -- by the lessor; 2[(cc) in the case of a certificate of enrolment in the roll of Advocates main tained by the State Bar Council ----- by the advocate enrolled.)

(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 pro-perty 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 partitio ned, 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, Court or arbitrator directs.

* Substituted by Act 29 of 1969. 1. Added by Act 17 of 1967. 2. Inserted by Act 29 of 1969.

* **30 A.** Celling on surcharge on stamp duty- Notwithstanding anything contained in the Kerala Panchayati Raj Act, 1994

(13 of 1994) or in the Kerala Municipality Act 1994

(20 of 1994), the rate of surcharge on stamp duty leviable on any instrument by a Grama Panchayat or a Municipality shall not exceed two percent of the amount on which stamp duty is payable.

CHAPTER III

Adjudication as to stamps

31. Adjudication as to proper stamps :-

(1) When any instrument, whether executed or not and whether previously stamped or not is brought to the Collector, and the person bringing it applies to have the opinion of that officer as to the duty, if any, with which it is chargeable, and pays a fee of such amount (not exceeding ten rupees and not less than one rupee) as the Collector may in each case direct, the collector shall determine the duty, if any, with which, in his judgement, 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 duty, or the amount of the duty 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 evidence 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 the full duty with 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 duty, and

(a) the Collector determines, that it is 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.

*Substituted by Act 1 of 2004.

(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 had been originally duly stamped : Provided that nothing in this section shall authorise 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 1 [twenty paise] or less than 1 [twenty paise] when brought to him, after the execution thereof on paper not duly stamped.

CHAPTER IV

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 the 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

(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 so to do any instrument coming before him in the course of any proceeding other than a 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 1. Substituted by Act 29 of 1969 - and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

(3) For the purposes 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 authenticated 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 1[twenty paise] or less than ^twenty paise] shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same chargeable, or in the case of an instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty of five rupees or, when ten times the amount of the pro per duty or deficient portion thereof exceeds five rupees, of a sum equal in 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 of such decision;

(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 a 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.

35. Admission of instrument where not to be questioned.- Where an instrument has been admitted in evidence, such admission shall not, except 1. Substituted by Act

29 of 1969 as provided 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 an 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 be 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 an 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 the Collector may refund the whole penalty so paid.

39. Collector's power to stamp instruments 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 J [twenty paise] or less, he shall adopt the following procedure.

1. Substituted by Act 29 of 1969

(b)

(2)

(3) 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; if he is of opinion that such instrument is chargeable with duty and is not duly stamped he shall require the payment of the pro-per duty or the amount required to make up the same, together with a penalty of five rupees; or if he thinks fifty an amount not exceeding ten times the amount of the proper duty or of the defi-cient 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. Every certificate under clause (a) of sub-section (1) shall, for the purposes of this Act, be conclusive evidence of the matters stated therein. 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] [twenty paise] or less is produced by any person of his own motion the Collector within one 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 stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under sections 33 and 39, receive such amount and proceed as next herein-after 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 sections 34, section 39 or section 40, the person admitting such instrument in evidence of the Collector, as the case may be, shall certify by endorsement thereon that the proper duty, as the case may be, the 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.

1. Substituted by Act 29 of 1969. (a)

(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 his 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. Provided that

(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 cancelled such certificated;

(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 proceeding 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 against the law relating to stamps in respect of such instrument: Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with an intention of evading payment of the proper duty.

43. Persons paying duty or 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, if 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 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) Whether 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 other authority specified under subsection

(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) 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 so 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. **1145A. 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 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, 1. S.45 A. Omitted by Act 16 of 1991 Pub. in K.G.Ex. No. 506 dt. 11-4-91 and inserted by Act 19 of 1994. 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.

(5) The Collector shall hear and dispose of the appeal in such manner as may be prescribed by rules made under this Act in that behalf and his decision thereon shall be final]

45B. Instruments 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 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 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 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 the 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.

1. Inserted by Act 14 of 1988. I[3A]

(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 the order sought to be appealed 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

2[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 or 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 penalty not exceeding twenty five per cent of the fair value of the land within 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 certificate of such payment on the instrument under his seal and signature and thereupon the instrument shall be duly registered by the registering officer.

(3) Where the person fails to comply with the direction under sub section

(3), the Collector shall order for the purchase of the land by the Government by paying the value of land or consideration set forth in the instrument together with an amount equal to twenty five per cent of such value or consideration.

(4) Where an order for the purchase 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.

1. 3A. Omitted by Act 16 of 1991 Pub. in K.G., Ex.No.506 dated 11-4-1991.

2. Inserted by Act 19 of 1994.

(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 purchased is situate.]

46. 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 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. Allowances for soiled 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 undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the purpose intended before any instrument written thereon is executed by any person:

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

(c) 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 intended;
- (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 officer thereby granted, totally fails of the intended purpose;
- (6) becomes useless in consequence of the transaction intended to be thereby effected, being effected by some other instrument between the same parties and bearing a stamp of not less value;
- (7) is deficient in value and the transaction intended to be thereby effected has been effected by some other instrument between the same parties and bearing a stamp of not less value;
- (8) is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped : Provided that, in the case of an executed instrument, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and that the instrument is given up to be cancelled.

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

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 stamped 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 is 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 forms no longer required by Corporation.--

The Government or such other authority as may 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 a stamp of greater value than was necessary or has inadvertently used any stamp for an instrument not chargeable with any duty; or

(b) When any stamp used for an instrument has been inadvertently rendered useless under section 15 owing to such 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 the 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 stamps 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 his discretion the same value in money deducting six paise for each rupee 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 a bonafide 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 pre-ceding the date on 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. Allowance 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 instrument is chargeable, he may draw up a statement of the case and refer it with his own opinion thereon, for the 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, in 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 other authority as may be specified by Government in this behalf may state any case referred to it under sub section

(2) of section 54 or otherwise coming to its notice, and after 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 additions 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 judgement 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 judgement under the seal of the Court and the signature of the Registrar; and the authority shall, on receiving such copy dispose of the case conformably to such judgment.

58. Statement of case by other Courts 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 judgement under the seal of the Court and the signature of the Registrar to the Government or such other authority specified in this behalf and other like copy to the judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgement.

(3) References 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 Courts regarding the sufficiency of stamps .-

(1) When any Court in the exercise of its Civil or Revenue jurisdiction or any Criminal Court in any proceeding 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,

(2)

(3)

(4) . such first mentioned Court may, of its own motion or on application of the Collector, take such order into consideration. 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. 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. 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 evading payment of the proper duty;

(b) except for the purpose of such prosecution, no declaration made under this section shall affect the validity of any order admitting any 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, sub-sequently imposed under this section in respect of the same instrument Upon the person who paid such penalty.

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

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 provision of section 28.- Any person who, with intent 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 in 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 unauthorised sale :--

(a) Any person appointed to sell 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 [twenty paise] or 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.

1. Substituted for the words "twelve paise" by Act 29 of 1969 w.e.f.(20-4-69).

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, authorises in that behalf.

(2) The Government, or any officer generally or specially authorized by it in this behalf, may stay such prosecution or compound any such offence.

(3) The amount of any such composition shall be recoverable in the manner provided by section 46.

66. Jurisdiction of Magistrates :-- 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 such offence might be tried under the Code of Criminal Procedure, 1898.

CHAPTER VTII

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 particular and without prejudice to the generality of the foregoing power such rules may be made 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

(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 1 (twenty paise) or 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 modification 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 of no effect, as the case may be.

70. Saving 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. Saving as to certain stamps.- All stamps in denominations of annas four or multiples 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 purposes 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 Reorganisation Act, 1956 (Central Act 37 of 1956) in so far as it relates to the matter specified in Entry 44 of List III of the Seventh Schedule to the Constitution in respect of documents specified in Entry 91 of List of the Schedule, shall, notwithstanding anything contained in any law, extend to the whole of the State of 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 Reorganisation Act, 1956 (Central Act 37 of 1956) in so far as it relates to the matter specified in Entry 44 of List III of the 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 I 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 thereunder;

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said enactments; 1. Substituted by Act 29 of 1969

(20-4-69). any penalty, forfeiture or punishment incurred in respect of any offence committed against the said enactments; or any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as afore-said and such 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.

1 [THE SCHEDULE Article SI. No.

(1) Description of instrument

(2) Proper stamp duty

(3) 1. Acknowledgement 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 acknowledgement does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property:- When the amount or value does not exceed Rs.1000: When it exceeds Rs. 1000: Administration Bond, including a bond given under section 291 or section 375 of the Indian Succession Act, 1925

(Central Act 39 of 1925) or section 6 of the Government Savings Banks Act, 1873

(Central Act 5 of 1873). 3. Adoption Deed, that is to say, any instrument

(other than a will), recording an adoption or conferring or purporting to confer an authority to adopt: Five rupees Ten rupees Two rupees fifty paise for every Rs. 100 or part thereof of the amount or value secured [Two hundred and fifty rupees.] 1. Substituted by Act 23 of 1969 2. 4. Affidavit, including an affirmation or declaration [Twenty five rupees.] tion in the 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 of enrolment under the Air Force 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 rupee

(b) if relating to the sale of Government security or share in an incorporated company or Rs. 10,000 or part thereof of the value of the security or share

(c) If not otherwise provided for. 1[Fifty rupees.] 6. 2[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 consisting or being evidence of the title to any property whatever

(other than marketable security), or

(2) the pawn or pledge of 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 1. Substituted by Act 23 of 1996. 2. Substituted by Act 14 of 1988

(24-2-88).

(a) If such loan or 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 exceeds Rs.500, but not exceed Rs.1000: 15.00 7.50 3.25

(iii) If it exceeds Rs.1000, for every Rs.1000 or part thereof: 15.00 7.50 3.25

(b) If such loan or debt is repayable not more than three 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.] 7. Appointment in execution of a power whether of trustees or of property movable or immovable where made by any writing nor being a will: 1[One hundred and fifty rupees] 8. Appraisal or valuation made otherwise than under an order of a Court in the course of a suit---

(a) Where the amount does not exceed Rs.1000:

(b) in any other case: The same duty as a Bottomry bond

(No.14 for such amount. 1[Seventy five rupees] 9. Apprenticeship Deed, including every writing relating to the service or tuition of any apprenticeship, clerk or servant places with any master to learn any profession, trade or employment, not being Articles of Clerkship

(No.11) Ten rupees

10. Articles of association of a company One thousand rupees

11. Articles of Clerkship 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: 2 [Five hundred rupees] 1. Substituted by Act 23 of 1996 2. Substituted by Act 14 of 1988

(24-2-88)

12. Award that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition on a reference made otherwise than 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.1000 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 1[One hundred rupees] and for every additional Rs. 1,000 or part thereof in excess of Rs.5,000: 1 [Three rupees]

13. 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. 1[Five rupees for every Rs. 100 or part thereof the amount or value secured. **Exemptions**

(a) Bail bonds and recognizances 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 seagoing ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage: 1[Five rupees for every Rs. 100 or part thereof of the amount or value secured]. 1. Substituted by Act 23 of 1996.

15. Cancellation. - Instrument of

(including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for:

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:

17. Certificate or other document evidencing the right or the title of the holder thereof or any other person either to any share, scrip or stock in or of any incorporated company or other body corporate or to become proprietor of share, scrip or stock in or of any such company or body:

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 specified purpose of the charterer whether includes a penalty clause or not:

19. Chitty or Kuri variola where the total amount subscribed exceeds Rs. 100:

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 licence for the benefit of his creditors: 2[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 1 [Two hundred and fifty rupees] 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. Fifty paise. Five rupees. 1 [Twenty five rupees for every Rs. 1,000 or part thereof of the total amount subscribed] 1[One hundred Rupees.] 3 [Two rupees for every Rs. 100 or part thereof] of the fair value of the property or the amount or value of the consideration for such conveyance, whichever is higher. 1, Substituted by Act 23 of 1996. 2. Substituted by Act 16 of 1991. 3.Substituted by Act 1 of 2004. 1[22.

23. 24. Conveyance as defined by section 2(d), not being a transfer charged or exempted under No.55, of immovable property situated within

(i) the Municipalities other than Municipal Corporations.

(ii) the Municipal Corporations Copy or 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 one rupee:

(ii) in any other case **Exemptions** 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. Counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid [Three rupees for every Rs.100 or part thereof, of the fair value of the property or the amount or value of the considerations for such conveyance, whichever is higher. Four rupees for every Rs.100 or part thereof, of the fair value of the property or the amount or value of the consideration for such conveyance, whichever is higher.] 2 [Ten rupees] 2 [Twenty rupees]

(i) if the duty with which the original instrument was chargeable does not exceed The same duty as is payable on the original

(ii) in any other case: 2[One hundred rupees]

25. Customs Bond or Central Excise Bond-

26.

(a) Where the amount does not exceed Rs.1000

(b) in any other case: 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 3[Rupees five for every Rs.100 or part thereof of the amount] 2

(Fifty rupees] 1. Substituted by Act 1 of 2004 2. Substituted by Act 23 of 1996. 3. Substituted by Act 16 of 1991. dock or port 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 such goods exceed in value twenty rupees:

27. Divorce instrument of, that is to say, any instrument by which any person affects the dissolution of his marriage:

28. Certificate of enrolment in the roll of advocates prepared and maintained by the State Bar Council under the Advocates Act, 1961.

(Central Act 25 of 1961): 1 [29. Exchange of property - instrument of: Further charge - instrument of that is to say, any 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: Thirty paise 1 [Five hundred rupees] Two hundred and fifty only 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 greater value as set forth in 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 further charge secured by such instrument. The same duty as a conveyance

(No. 21 or 22, as the case may be) for a 1. Substituted by Act 23 of 1996. 2. Substituted by Act 16 of 1991.

30.

(ii) if possession is not so given: 1 [31. Gift - instrument of, not being a settlement or will or transfer:

32. Indemnity Bond:

33. Lease - including an under lease 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

(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 than one year but not more than 5 years:

(iii) where the lease purports to be for a term exceeding 5 years but not exceeding 10 years: consideration equal to the total amount of the charge

(including the original mortgage and any further charge already made), less the duty already paid

(x x x) on such original mortgage and further charge. The same duty, as a Bottomry Bond

(No. 14) for 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) The same duty as a Security Bond

(No.50) for the same amount. The same duty as a Bottomry Bond

(No. 14) for the whole amount payable or deliverable under such lease. The same duty as Bottomry Bond

(No. 14) for the amount or value of the average annual 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 the average annual rent reserved. 1.Substituted by Act 14 of 1988.

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

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

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

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

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

(b) where the lease is granted for a fine or pre-mium or for money advanced and where no rent is reserved. The same duty as a con-veyance

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

(No.21 or 22, as the case may be) for a con-sideration equal to three times the amount or value of the average annual rent reserved. The same duty as a con-veyance

(No.21 or 22, as the case may be) for a con-sideration equal to four times the amount or value of the average annual rent reserved. The same duty as a con-veyance

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

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

(No.21 or 22, as the case may be) for a

(c) Where the lease is granted for a fine or premium or for money advanced in addition to rent reserved. consideration equal to the amount or value of such fine or premium or advance as set forth in the lease. 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 premium or advance had been paid or delivered: Provided that in any case where an agreement to lease is stamped with advalorem 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 cesses 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.

34. Letter of allotment of shares in any company or proposed company or in respect of any loan to be raised by any company or proposed company:

35. Letter of licence, 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: 1. Substituted by Act 14 of 1988

(24-2-88)

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 The same duty as a con-part of the property comprised in such deed veyance

(No.21 or

22. as is given by the mortgagor or agreed to be the case may be) for a con-given: sideration equal to the amount secured by such deed.

(b) when possession is not given or agreed to The same duty as a Bott be given as aforesaid: omry Bond

(No. 14) for the amount secured by such deed. **Explanation:-** A mortgagor who gives or has given to the mortgage a power of attor-ney to collect rents or gives or has given to the mortgagee a lease of the property mort-gaged or part thereof, is deemed to give possession thereof within the meaning of this article.

(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 duly stamped, for every sum secured not exceeding Five rupees. Rs 1000 and for every Rs.1000 or part thereof secured Five rupees in excess of Rs. 1000: **Exemption** Instruments executed by persons taking advances from Government for agricultural purposes or by their sureties as security for the repayment of such advances. .

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

(a) When the loan is repayable not more than 3 moths from the date of the instrument-for every sum secured not exceeding Rs.200: for every Rs.200 or part thereof secured in excess of Rs.200:

(b) when the loan is repayable from more than 3 months but not more than 8 months from the date of the instrument for every sum secured not exceeding Rs. 100: for every Rs.100 or part thereof secured in excess of Rs.100:

39. Notarial Act, that is to say, any instrument, endorsement, note, attestation certificate, or entry not being a Protest

(No.45) made or signed by a notary public in the execution of the duties of his Office or by any other person-law fully acting as a Notary Public:

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

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

(b) of any stock or marketable security exceeding in value Rs.20: Fifty paise Fifty paise Seventy five paise Seventy five paise 1 [Fifty rupees] Seventy-five paise Subject to a maximum of fifty rupees, fifty paise for every Rs. 10.000 or part thereof of the value of the stock or security. 1. Substituted by Act 23 of 1996.

41. Note of protest by the Master of a ship: 1[**42.**Partition- Instrument of [as defined by section 2(k)]:

(i) Where the partition is among all or some of the family members. Five rupees The same duty as a Bottomry bond

(No. 14) for the amount of the value of the separated share or shares of the property. 2[Six rupees for every Rs. 100 or part thereof of the amount or 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 . T h e l a r g e st 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 an agreement to divide pro-erty 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 on 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 parti-tion is stamped with the stamp required for an instrument of partition and an instrument of partition in pursuance of such order or award is sub sequently executed, the duty on such instrument shall not exceed two rupees thirty paise. 1. Substituted by Act 16 of 1991 2. Substituted by Act 23 of 1996

(ii) in any other case

43. Partnership 1[(a) A. Instrument of Partnership deed

(a) where the capital of the partnership does not exceed Rs. 1,000:

(b) in any other case: 1[(b) Dissolution of Partnership deed

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:

(b) when authorising one person or more to act in a single transaction other than the case mentioned in clause

(a):

(c) when authorising not more than 5 persons to act jointly and severally in more than one transaction or generally:

(d) when authorising more than 5 but not more than 10 persons to act jointly and severally in more than one transaction or generally :

(e) when given for consideration and authorising the attorney to sell any immovable property:

(f) in any other case: **Explanation.-** For the purpose of this article, more persons than one when belonging to the same firm shall be deemed to be one person. 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 dishonour of a bill of exchange or promissory note: Protest by the Master of a 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 charterers or the One Thousand rupees] Two hundred and fifty rupees] 1[Twenty-five rupees) 1[Fifty rupees] 1[One hundred and fifty rupees] 1[Five hundred rupees] The same duty as a conveyance

(No. 21 or 22 as the case may be) for the amount of the consideration. 1[One hundred and fifty rupees for each person authorised] Five rupees 1. Substituted by Act 23 of 1996.

45. 46.

47. consignees for not loading or unloading the Five rupees ship, when such declaration is attested or certified by a notary public or other person lawfully acting as such: Reconveyance of mortgaged property -

(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000:

(b) in any other case: 2[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

(b) in any other case

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: Security bond or mortgage deed, executed by way 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 :

(b) in any other case: **Exemptions** Bond or other instruments, when executed The same duty a Bottomry Bond

(No. 14) for such amount or value as set forth in the release. 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.] 3[Five rupees for every Rs.100 or part thereof of the amount of the loan secured.] . [Five rupees for every Rs.100 or part thereof of the amount secured.] 1[One hundred rupees] 1. Substituted by 23 of 1996. 2. Substituted by Act 16 of 1991. 3. Substituted by Act 14 of 1988. 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 reconveyance. 1 [Two hundred fifty rupees] in the case of immovable properties situated in the areas referred to in article 22 and [One hundred fifty rupees] in the case of immovable properties situated in other areas. **50.**

(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, **1[51.**Settlement- A. Instrument of

(including a deed of dower): **Exemption** Deed of dower executed on the occasion of a marriage between Muhammadans: B. Revocation of: The same duty as a Bottomry Bond

(No. 14) for a sum equal to the amount or value of the property settled as set forth in such settlement. Provided that where an agreement to settle is stamped with the stamp required for an instrument of settlement and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed five rupees. The same duty as a Bottomry Bond

(No. 14) for a sum equal to the amount or value of the property concerned as set forth in the instrument of revocation, but not exceeding 2[One hundred rupees.] I. Substituted by Act 14 of 1988 and repealed by Act 23 of 1996. Act 14 of 1988. s. 18

(81 read as follows: 1[51. Settlement- A. Instrument of

(including a deed of dower}: The same duty as a conveyance

(No. 21 or 22 as the case may be). **Exemption** Deed of dower executed on the occasion of a marriage between Muhammadans; Provided that where an agreement to settle is stamped with the stamp required for an instrument of settlement and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed five rupees. The same duty as a conveyance

(No. 21 or

22. as the case may be) but not exceeding one hundred rupees. B. Revocation of: 2. Substituted by 23 of 1996

52. Share warrants to bearer issued under the Companies Act, 1956

(Central Act 1 of 1956) Ten rupees for every Rs.100 or part thereof of the nominal amount of the share specified in the warrant.

53. Shipping order for or relating to the conveyance of goods on board of any vessel 1[One rupee]

54. Surrender of lease-

(a) When the duty with which the lease is chargeable does not exceed 1[One hundred rupees]

(b) In any other cases The duty with such lease is chargeable 1[One hundred rupees]

55. Transfer

(whether with or without consideration)

(a) of debentures, being marketable securities, whether the debenture is liable to duty or not:

(b) of debenture stocks:

(c) of any interest secured by a bond, mortgage deed or policy of insurance

(i) if the duty on such bond, mortgage deed or policy does not exceed 1[fifty rupees]

(ii) if any other cases

(d) of any property under the Administrators General Act, 1963

(Central Act 45 of 1963), Section

22.

(e) of any trust property without consideration from one trustee to another trustee or from a trustee to a beneficiary 1[fifty paise for every one hundred rupees or part thereof of the face amount of the debenture]. One rupee for every one hundred rupees or part thereof of the face amount of the debenture stock. The duty with which such bond, mortgage deed or policy of insurance is chargeable 1[fifty rupees] Forty rupees 1[Fifty rupees] or such smaller amount as may be charged under clauses

(a) to

(c) of this article. 1. Substituted by Act 23 of 1996. **Exemptions** Transfer by endorsement -

(a) of a bill of 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 not by way of under lease The same duty as a conveyance

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

1[57. Trust A. Declaration of - of or concerning any property when made by any writing not being a Will. B. Revocation of - of or concerning any property when made by any instrument other than a will. The same duty as a conveyance

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

(No.21 or 22 as the case may be)

58. Warrant for goods, that is to say, any instrument evidencing the title of any person therein named or his assigns or the holder thereof to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be: One rupee fifty paise 1. Substituted by Act 14 of 1988.