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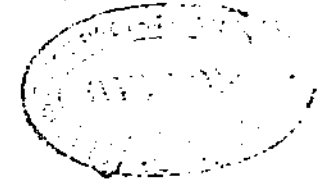
REGISTRATION MANUAL

(VOLUME—I)

PART—II

CHAPTER I

General set up of the Department



1. *The date of commencement of the Department.*—The Registration Department started functioning from 1st Dhannu 1043 M.E., in the Travancore area under Act I of 1042, from 1st Edavam 1050 M.E. in the Cochin area under Act I of 1049 of the erstwhile Cochin State and from 1st January 1865 A. D. in the Malabar area under Act XVI of 1864 A.D. (Madras). The three units have been integrated to form the present Registration Department with the formation of the Kerala State from 1st November 1956 and the Registration Act, 1908 is in force throughout the State.

2. *Objects of the Law of Registration.*—Registration Law governs documents rather than transactions. The main objects of the Law of Registration are:

- (a) to provide a conclusive proof of the genuineness of documents;
- (b) to afford publicity to transactions;
- (c) to prevent fraud;
- (d) to afford facility for ascertaining whether a property has already been dealt with; and
- (e) to afford security of title deeds and facility of proving titles in case the original deeds are lost or destroyed.

3. *Other Laws administered by the Registration Department.*—Besides the Law of Registration, the following laws are also administered by the Registration Department

(1) *Stamp Act.* Registrars are Collectors under sections 31, 32, 37, 38 (1), 39 and 41 of the Kerala Stamp Act, 1959.

(2) *The Travancore Chitties' Act, 1126 and the Cochin Kuries' Act.*—All Sub-Registrars in the Travancore area are appointed Ex-Officio Registrars under the Travancore Chitties' Act, and all Sub-Registrars in the Cochin area as Registrars under the Kuries' Act. The Registrars of the districts, Chitty Auditors and the Chitty Inspectors exercise powers of inspection and audit of chitties or kuries respectively within their jurisdiction.

SEPTEMBER 1961.

(3) *The Indian Partnership Act (Act IX of 1932)*.—The Inspector General of Registration functions as the Registrar of Firms under this Act.

(4) *The Travancore-Cochin Literary, Scientific and Charitable Societies' Registration Act (Act XII of 1955) and Societies Registration Act XXI of 1860 (Central Act XXI of 1860)*.—The Inspector-General of Registration is the Registrar of Societies under these Acts. The powers of the Inspector-General of Registration have been delegated to the Registrars of the respective Districts.

(5) The Inspector-General of Registration functions as Registrar of Non-Trading Companies in the State under the Kerala Non-Trading Companies Act (Act 42 of 1961).

(6) The Inspector General of Registration is the Licensing Authority for the issue of Licences of Document Writers and Scribes under the Kerala Document Writers' Licence Rules, 1960. The Inspector of Registration Offices, Trivandrum is competent to renew State Licences. A District Registrar is competent to renew the licence for his district. A Sub Registrar is competent to renew the Sub-District Licence.

(7) *The Special or Civil Marriage Act*.—All Registrars and Sub-Registrars have been appointed as Marriage Officers under the Special Marriage Act (Central Act 43 of 1954) within their respective jurisdiction.

4. The service mainly consists of six categories of officers besides the clerical staff and last grade servants. Rules regarding appointment, promotion and other service conditions are furnished in Appendix II.

Powers of Board of Revenue over the Department

5. The Board of Revenue exercises a general supervision over the Department as detailed hereunder:—

(i) The Board of Revenue has the power to inspect any Registration Office and to forward their inspection reports to the Inspector-General of Registration for necessary action.

(ii) The Inspector General of Registration shall send a quarterly report to the Board of Revenue regarding matters of policy, budgeting and expenditure.

(iii) All proposals to Government on the following matters of policy shall also be routed through the Board:—

- (a) Questions connected with the formation of the Kerala State.
- (b) Location of Offices.

(c) Formation of new Districts and Sub Districts and defining their jurisdiction subject to powers already vested in the Heads of Department.

(d) Promulgation of new Acts and Rules.

(e) Questions involving increase or reduction of staff.

(f) All Budget proposals of the Department.

Organisation of the Office of the Inspector General

6. (a) The Inspector General of Registration is the Head of the Department. He is assisted in the discharge of his duties by a Personal Assistant, a Law Officer, Senior Superintendents, Junior Superintendents and Cashier.

(b) The various powers that have been delegated to the Inspector General, Inspector of Registration Offices, Personal Assistant and District Registrars and Sub Registrars, by Government are described in Appendix III. The Senior Superintendents exercise supervision over the important sections of Establishment and inspection while Junior Superintendents are in charge of the other sections.

Organisation of the Office of the Inspector of Registration Office.

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

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

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

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

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

- (i) Surprise inspection of Sub Registry Offices
- (ii) Annual inspection of Amalgamated Sub Registry Offices.
- (iii) Enquiries of public complaints.
- (iv) Disposal of audit reports of Internal auditors.

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

- (i) Renewal of State Licence of Document Writers and Scribes and
 - (ii) Disposal of inspection reports of Sub Registry Offices by Registrars except waiving the recovery of deficits.
- (f) (i) Three Audit Units have been formed with a view to intensify the work of receipt audit. These units form the Internal Audit wing of this Department. The grouping of the Audit Unit is as follows:—
- (1) Trivandrum and Quilon Registration Districts form one unit with headquarters at Trivandrum.
 - (2) Alleppey, Idukki, Kottayam, Ernakulam and Trichur Registration Districts form another unit with headquarters at Ernakulam.
 - (3) Palghat, Kozhikode, Malappuram and Cannanore Districts form the third unit with headquarters at Kozhikode.
- (ii) Each unit will consist of a Sub Registrar (2nd Grade) and two U. D. Clerks. They will be under the Inspector of Registration in offices of the respective zone and will be attached to the office of the Inspector.

Organisation of the Office of the District Registrar

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

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

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

Amalgamated Sub Registrar

9. (a) The Sub Registry Office or the Principal Sub Registry Office at the District Headquarters of each District is amalgamated with the office of the Registrar under section 7 (2) of the Indian Registration Act.

(b) Certain functions and powers of the Registrar are delegated to the Sub Registrar of the Office so amalgamated which are described in Appendix V.

(c) The amalgamated office will have two sections whether housed in the same building or not, namely (i) the supervising Section and (ii) the registering section.

10. Registration of documents, filing, indexing, attesting and accounting of all documents, files and powers including registration under section 30 (1), receipt, filing and disposal of copies and memoranda under sections 65 and 66 (3), preparation and despatch of memo and copies under section 66 (i) and (ii) of the Indian Registration Act, issue of copies and certificates and all other functions normally to be attended to by a Sub Registrar will be the work of the Registering section. Registration, filing, indexing and accounting of the section will be in the same books, files, indexes and accounts irrespective of the facts as to whether the work performed is by a Sub Registrar or a Registrar.

11. The Supervising or District section proper, will confine itself to inspection, appeals, functions under Chapter IV of the Registration Rules and control and supervision of the offices within the district. The returns connected with these functions of the Supervising section will be treated as district returns and they shall be attended to by that section.

12. The Registrar will attend the functions of the supervising section. While the Sub-Registrar besides attending to the ordinary functions of the Registering section, will supervise the work of the District section also subject to the control and direction of the Registrar.

13. The Sub-Registrar of an amalgamated office may attend to registration under section 30(1) even when a Registrar is at headquarters. In writing the endorsement on documents registered as such the Sub-Registrar shall designate himself as 'Sub Registrar exercising the powers of the Registrar' and the office will be styled in the endorsement as Registrar's Office. But the deposit of Wills, opening of sealed covers containing Wills and such other duties shall be attended to by the Registrar himself. No authorisation in such items is allowed unless charge of the office is handed over.

14. All papers in the supervisory section shall be submitted to the Registrar through the Sub Registrar of the amalgamated office.

15. The Sub Registrar of the amalgamated office is authorised to sign 'FOR' Registrar and communicate letters or orders, the drafts of which have been approved by the Registrar. But he shall not sign or countersign any pay bill, contingent bill, or travelling allowance bill or certificates to be signed or countersigned by the Registrar.

16. A Registrar and the Sub Registrar shall not ordinarily be absent from headquarters at the same time. When the Registrar is absent either on duty or otherwise, the Sub Registrar will attend to his delegated powers in the District section besides his own routine functions. He will attend to

and dispose of papers of a routine nature in anticipation of the approval of the Registrar. He may also gather information or clarification or statistics from subordinate officers regarding papers of an important nature relating to the policy of the Department or questions relating to stamp and fee, so that expeditious disposal of such papers may be facilitated when the Registrar resumes charge. When the Sub Registrar of the amalgamated office is absent, the District Registrar will attend to his special functions in the Registering section, the routine functions of the Registering section including registration of documents being left to the officer to whom the amalgamated Sub Registrar has handed over charge.

17. When the Registrar is on tour, casual leave or otherwise absent from headquarters and the Sub Registrar of the Amalgamated Office falls ill or has to be unavoidably absent, the Junior Superintendent of the Registrar's Office or the Junior Superintendent of the Sub Registry Office, whoever is senior shall be in charge and in their absence Joint Sub Registrar, if any, of the Amalgamated Sub Registry Office or in his absence any other Sub Registrar may be given charge of the office, which should be specially approved by the Registrar on his return to Headquarters under intimation to the Inspector General of Registration.

18. When the Sub Registrar of an Amalgamated Office is absent on leave or otherwise the Junior Superintendent and in his absence the Joint Sub Registrar will be in charge of the Office. If there is no Junior Superintendent or Joint Sub Registrar, the Head Clerk, and in his absence the senior-most of the clerks with the best qualification of the Registering Section appointed under section 12 will attend to his duties in that section. A sub Registrar so placed in charge in the Registering section may attend to registration under section 30 (1) of the Indian Registration Act in the direction of the Registrar.

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

The remarks in the 'A' Account may be in the following form:—

"Will registered by opening sealed cover No. of the year of the Registrar's Office."

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

(b) But separate registers and files in connection with attestation of powers of attorney, cancellation of powers of attorney and attendance at private residence by a Registrar shall be maintained in the Supervising section. In these shall be entered the details regarding powers attested, etc. by a Registrar or Sub-Registrar exercising powers of Registrar while holding charge of the Registrar's Office. Powers of attorney presented with documents registered under section 30 (1) of the Indian Registration Act shall however, be filed or dealt with in the Registering section.

20. All amounts of fee received in the two sections shall be accounted for separately.

21. Receipt books and Thumb-Impression Registers shall also be maintained separately.

22. The fee under section 30 (1) of the Indian Registration Act as per fee schedule (Article III of table of fees) shall also be levied if and when documents comprising properties in the headquarters Sub-District are accepted and registered by the Registrar.

23. When a Registrar is on tour or otherwise absent from headquarters, the keys of the safe holding the sealed covers, containing Wills and other connected records and the permanent advance of the office will be in the custody of the Sub-Registrar of the amalgamated office and in his absence in the custody of the Sub-Registrar or any other person specially authorised under rule 11 (2) of the Registration Rules. Proper acknowledgements should be submitted to the Inspector-General of Registration along with the reports of transfer of charge.

24. Any officer holding temporary charge of the office of the Registrar shall sign "for Registrar".

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

25. Each District is subdivided into several Sub-Districts, each under the jurisdiction of an officer designated the 'Sub-Registrar'. Details regarding the jurisdiction of the Sub-Registrars are furnished in Appendix IV.

26. (a) The Sub-Registrar will be the head of the office and shall be responsible for the general condition, control, administration and efficiency of the office. He will be responsible for remittances and up-keep of records. Documents and all papers presented at the office, shall be received by him and he will be competent to decide whether sufficient work has been accepted for the day as contemplated by rule 2 of the Registration Rules and for its distribution. All correspondence of the office shall be through him and under his signature.

"In his absence on casual leave or otherwise, Junior Superintendent, and in his absence the Joint Sub-Registrar will be in charge of the office. If there is no Junior Superintendent or Joint Sub-Registrar, the Headclerk and in his absence the seniormost of the clerks shall be in charge and shall attend to the duties of the Sub Registrar.

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

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

(d) A clerk holding charge of an office shall style himself as 'Sub-Registrar'.

Joint Sub Registrar

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

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

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

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

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

(f) Documents accepted by the Sub-Registrar and Joint Sub-Registrar shall ordinarily be certified and the entries connected therewith, in the

registers attested by the concerned officers. Attestation of all accounts other than A and B Accounts, indexes and all other records that need attestation, will generally be made by the Sub-Registrar.

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

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

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

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

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

CHAPTER II

Office hours and attendance

28. *Office hours.*—(a) Office hours and attendance in general are governed by the instructions thereof, in the Manual of Office Procedure.

(b) The Registering Officer and his establishment shall be present in the office during the hours prescribed in the Registration Rules. An interval of three quarters of an hour between 1-15 and 2 p. m. may be set apart for tiffin. But care must be taken to avoid the simultaneous absence of the officer and staff from the office during the interval. During periods when work is especially heavy, the Sub-Registrar and the establishment may attend office earlier and work later than the prescribed hour.

29. *Attendance register.*—(a) A register in the common form shall be maintained in each Registration office in which the officer and each subordinate, excluding the sweeper, shall mark his attendance as soon as he reaches the office by initialling against his name in the requisite column for the day. The hour of attendance shall also be marked when any one attends office late. Last grade servants should also mark their attendance likewise.

(b) This register shall be retained on the table of the Junior Superintendent or Head Clerk as the case until the hour at which the work in the office is to be commenced when it shall be submitted to the Head of the Office or in his absence the person who is in charge of the office.

30. *Holidays.*—The holidays to be observed in Registration offices are the holidays notified by the Government. A list of such holidays shall be prepared and exhibited on the notice-board of the office for the information of the registering public.

31. *Late leave.*—A Sub-Registrar shall obtain the previous permission of the Registrar of the District for attending office late or for leaving it earlier. If in any case such permission cannot be obtained previously, a report shall be submitted by the next post. Similarly clerks and peons will obtain previous permission of the Head of the Office for attending office late and leaving it earlier. The permission for late attendance or early departure shall be obtained in writing.

32. *Holiday work.*—Before closing his office on a day previous to a holiday, the Sub-Registrar shall ascertain whether the state of work demands attendance on a holiday and if he finds this to be necessary, he shall arrange accordingly.

33. *Night watch.*—A Registration office shall not be left unguarded at any time. The peons in registration office shall by turns perform the

duty of night watch. The peon on night duty shall guard the office from the time at which it is closed till he is relieved on the following day. The particulars regarding night watch shall be entered in the attendance register. For this purpose, the columns, the particulars of which are given hereunder, may be added in manuscript below the entry regarding attendance.

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

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

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

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

CHAPTER III

Presentation of Documents

35. *Place and time of presentation by whom to be presented.*—No Registering Officer shall receive at his residence any document for registration or for any other purpose connected therewith. Each document (except as provided for in sections 31 and 38 of the Act) is to be presented within the time stipulated in rule 2 of the Registration rules by any one person entitled to present it in the Office of the Sub-Registrar who has jurisdiction to register it. The persons entitled to present the documents are described in section 32 of the Indian Registration Act. The presentation of copies of decrees and orders of courts are also governed by the section and hence they may be presented by any one person claiming under the decree or order of the court.

36. Documents relating to immovable property falling under section 17 (1) and (2) with the exception of copies of decrees and orders of courts and documents falling under section 18 of the Indian Registration Act shall be accepted for registration only in the office of the Sub-Registrar having jurisdiction over the sub-district in which the property or any portion thereof affected by the documents is situated.

37. *Decree or order of court.*—Presentation of.—A copy of a decree or an order of a court relating to immovable property under section 29 (2) of the Indian Registration Act shall be accepted for registration only in the office of the Sub-Registrar in whose sub-district the original decree or order was made.

38. Such an office may or may not be the office of the Registering Officer in whose sub-district the property or any portion thereof is situated. The fee sending memoranda and copies in respect of such registration in offices having no jurisdiction over the property has to be realised.

A copy of decree or order of court which does not affect immovable property may be presented in the office of any Sub-Registrar at which all the persons claiming under the decree or order desire it to be registered

39. *Presentation where executants and claimants unanimously agree to.*— If all the parties executing and claiming under a document registrable under section 29 (1) of the Indian Registration Act so indicate, they may choose any registration office at which to register the deed; if all the parties executing and claiming under the document do not agree, the document can be registered only in the office, having jurisdiction over the place in which the document was executed.

40. *Presentation by wrong party or in wrong office.*— If the original presentation of a document for registration is made by a wrong party or in a wrong office and if the mistake is detected before the document is admitted to registration, the presentation shall be treated as a nullity and the Registering Officer shall return the document for being re-presented by the proper person or in the proper office after making a note to that effect in the Minute Book (Chapter IV) and on the document. Such return is no bar to the acceptance of the document for registration and to its being dealt with as provided by law, if the re-presentation is made within the prescribed time.

41. *Presentation of rectification deeds.*— For the purpose of section 28 of the Indian Registration Act, a rectification deed shall be dealt with in the same manner as the original instrument which it rectifies, whatever be the nature of the error rectified. Accordingly the deed is registrable in any of the offices within the jurisdiction of which the property affected by the original document is situate.

42. *Acceptance of document in the order of presentation.*— Each document shall be taken up for registration in the order of its receipt; but documents presented by ladies, aged persons, sick persons and parties coming from a comparatively great distance shall be given preference.

43. As far as possible formal acceptance of all documents should be done in the same day and when it is not possible owing to lack of time the parties might be requested to come the next day. Such instances of non-acceptance of documents shall as far as possible be avoided.

44. *Points to be ensured before acceptance.*— (a) Each document shall, before acceptance, be examined to ensure:—

(i) that the party presenting it is entitled to present it as per the provision contained in the Indian Registration Act;

(ii) that the Registering Officer has jurisdiction to accept it for registration;

(iii) that the certificate of wealth and other taxes as contemplated in rule 30 (iii) of the Registration Rules if any has been produced;

(iv) that the declaration under the Kerala Land Reforms Act, 1969, statements under Rule 3 of the Kerala Stamp (Prevention of Under-valuation of Instruments) Rules, 1968 and such other declarations or statements as may be prescribed from time to time have been produced.

(v) that the document is accompanied by a true copy prepared in accordance with Registration (filing of True Copies) Rules, 1967.

(vi) that the document has been duly attested by a licensed document writer to scribe wherever such attestation is necessary.

(b) The assessees belonging to the category mentioned in the annexure below are not liable to pay wealth-tax. Therefore no certificate of wealth-tax need be demanded from them.

ANNEXURE

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

45. The entry in documents of such material items as date, age of parties, amount of consideration, rate of interest, rent, term, survey and subdivision number, extent and so on, both in figures and in words, minimises the chances of tampering with entries in Register Books and secures the best interests of all concerned. Registering Officers shall accordingly explain to parties, the security which the system affords and by personal endeavour encourage its adoption.

✓ 46. Details to be examined before the commencement of the process of registration.— If the points mentioned in Order No.44 are clear, the documents shall be examined with reference to—

(a) (i) The date of the document.—A Registering Officer shall compare the date of execution given in a document with the date of purchase of the Stamp paper or papers on which the document or any portion of it is written in order to ensure that ante-dated documents are not admitted to registration.

(ii) When a document consists of two or more Stamp papers purchased on different dates and the date of execution is found to be prior to the date of purchase of anyone of the Stamp papers, the document shall be treated as ante-dated.

(iii) If the date of execution is given in a document in both the English and the Indian calendars and if the date given according to the English Calendar does not tally with the date as found in any of the Indian calendars, the party shall be required to reconcile the discrepancy.

(a) A counter-part of a document need not necessarily bear the same date as its original.

(b) In the case of a copy of a court sale certificate the date on which the original certificate of sale is signed by the Presiding Judge should be taken as the date of execution of the document.

(c) The date of execution shall be checked with the date of presentation in order to ensure that the document is presented within 4 months from the date of execution of the document. Detailed instructions on this point is given in Chapter XVIII

(d) If the date borne by a document is different from its date of execution the reason for the variation shall be got incorporated in the document.

(b) Description of the parties and attesting witnesses viz. their signature and additions.—(i) Parties and attesting witnesses shall be advised to mention their additions in documents but a document cannot be refused registration for want of such information. A deposition may be obtained, when necessary as prescribed in rule 179 of the Registration Rules.

(ii) Every page of a document shall be attested by the signatures of all the executing parties with their names.

(iii) Provided that such attestation by all the executing parties on each page need not be insisted upon when the number of executants in a document is unusually large. In such cases, the last page alone shall be signed by all the executing parties, the remaining pages being attested by anyone of them with a note to that effect added in the body of document.

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

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

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

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

(iii) When a party brings for registration an agreement, a release or similar document relating to immovable property which does not contain a sufficient description of such property, he should be advised to comply with the requirements of section 21 of the Indian Registration Act and the rules

in force regarding description of property; but if such a document makes reference in general terms to all property movable and immovable belonging to a family, a description of the immovable property need not be insisted on if it is not the intention to create or relinquish any right on any specific immovable property. Such a document may be registered in Book 4, e. g.:—If "K" an undivided member of a Marumakkathayan family releases his claims and rights over the Thuravadi or Thavazhi properties, movable and immovable, in general terms only, such a document is registrable in Book 4 and the description of property as required by section 21 of the Indian Registration Act need not be insisted upon.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47. *Court-fee Stamps on documents executed in pursuance of an Order of a Court.*—When admitting to registration a document executed in pursuance of an order of a Court, the Registering Officer shall ensure that apart from the duties chargeable under the Kerala Stamp Act, the requisite court-fee labels have been affixed thereto as required by the Court Fee Act.

48. *Cancellation of Adhesive Court-fee stamp.*—Registering Officers shall ensure that all adhesive stamps affixed to documents presented for registration are dealt with in accordance with the rules in force.

49. No documents should be registered until the Registering Officer has thoroughly satisfied himself that it is complete in all particulars as described above, in Orders 44 and 46 to 48.

50. When the scrutiny as said above is over, the Sub-Registrar will proceed with the examination of parties and witnesses as described in the next Chapter.

CHAPTER IV

Examination of parties and witnesses

51. *Examination of parties before registration, by Registering Officer.*—In examining a person under the provisions of the Indian Registration Act, it is not absolutely necessary to put him on oath. Section 63 of the Act leaves the matter to the discretion of the Registering Officer. Whether the administration of an oath is necessary or not in any case, will depend upon the circumstances connected with it.

52. The examination of a party by a Registering Officer is, under section 31 of the Indian Registration Act, confined to matters pertaining to—(1) the identity of parties and (2) the authority of those who appear as representatives, assigns, or agents and (3) the fact of execution. It is not within the province of a Registering Officer to compel a party to make a statement regarding the receipt of consideration although he is bound to record a voluntary admission of receipt of consideration.

53. Unless the Registering Officer is personally acquainted with the party appearing before him, he is bound to satisfy himself that he is the person whom he (the party) represents himself to be.

54. *Representatives.*—When the executant of a document is dead, his representative or assigns should, under section 33 (1)(c) of the Indian Registration Act, appear personally before the Registering Officer and admit execution. There is no provision in the Act authorising an agent to appear in such cases. Where a representative is a minor his guardian should appear on his behalf.

55. The "personal law" referred to in the definition of "minor" in section 2 (b) of the Indian Registration Act is the law prescribed in the Indian Majority Act, 1875, and the age at which minority ceases shall be determined with reference to the provisions of section 3 of the Act. Accordingly the period of minority of a person domiciled in India shall be held to terminate on the completion of the eighteenth year, except in the case of a minor for whom a guardian has been appointed by a court of justice or the management of whose property has been assumed by the court of wards, who attains majority on the completion of the twenty-first year.

56. *Minors not entitled to presentation of documents.*—Documents executed in favour of minors cannot be presented by them for registration. No person who has not attained majority is competent to act on his own behalf. In all such cases, presentation should be made by the minor's guardian or representative.

57. In the case of a document executed by a duly constituted attorney and presented by him for registration he should sign as the attorney of so and so and not as if he were the Principal.

58. A document executed by a Principal in favour of the agent can be presented by the agent in his personal capacity and its execution admitted in his representative capacity, whatever may be the legal effects of such a registration.

59. In the case of contracts entered into by a firm it is sufficient, in order to bind the whole firm, for one of the partners to execute the document by affixing the usual title of firm. There is, therefore, no objection to this partner affixing the name of the firm in the admission endorsement. The addition to be made by the Registering Officer, under section 38 (i) (a) of the Indian Registration Act shall be worded as follows:

"Represented by one of the partners of the firm"

60. So far as a registered Company is concerned, any Director can sign and admit execution of the document.

61. *Pardhanashin and Gosha Ladies*:—(a) A Registering Officer or a Commissioner appointed by him has no power to demand in the case of a pardhanashin lady the withdrawal of the pardah.

(b) A Registering Officer or the Commissioner appointed by him must be satisfied that the pardah lady whose evidence is required is the person actually examined and must himself hear what she says. He shall take care to obtain the admission of execution from the executants own lips. The mere statement of relatives or other persons accompanying her is not sufficient. The terms of the document shall be explained to the executant and if, while admitting execution, she objects to any of the terms, such objections shall be recorded in the deposition book by the Sub Registrar or in a separate sheet by a Commissioner.

62. A gosha lady may be permitted to present a document for registration or to receive or make payment of consideration money or to receive or deliver goods through a haminnee.—The Registering Officer may satisfy himself as to the fact of presentation by the lady or the receipt or payment of consideration money or the receipt or delivery of goods by the lady by putting questions and he may, he replies, although he may not see her face. He shall invariably record a deposition from the gosha lady in regard to these matters as well as admission of execution.

63. *Identity of parties*.—The identity of a party appearing before a Registering Officer shall if practicable, be proved by the testimony of persons who are personally known to the Registering Officer himself or, when this testimony is not procurable, by the most trustworthy evidence available. The attesting witnesses to a document need not necessarily be examined in connection with identification, since what is ordinarily required, is not proof of execution but proof of identity. Moreover, it may often be inconvenient for such witnesses to proceed to the registration office from their villages and

Identifying witness

they may, after all, be stranger or obscure persons with whose testimony the Registering Officer may not be satisfied.

61. (a) Registering Officers shall guard against false personation in the registration of a document. In a village there are sometimes several persons bearing the same name or a person has several aliases. Whenever therefore an identifying witness is examined, the enquiry shall be sufficiently specific to admit of the detection of a false personation and of fixing the responsibility on a witness who may mislead a Registering Officer.

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

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

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

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

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

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

Note.—Two witnesses shall generally be examined for identification of parties to a document.

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

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

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

66. *Admission of execution.*—(a) The admission required under section 35 of the Indian Registration Act is admission of the execution of the document. It is not enough for the person who is the ostensible executant to admit his signature on a paper on which the document is ultimately engrossed after his signature. The identity of the paper on which the signature occurs is not sufficient. If a man says that he signed a blank paper on the representation that it was required for presenting a petition or if a man signs a completed document on the representation that his signature or thumb impression is required as an attesting witness, that admission of the signature or thumb impression in those circumstances cannot be construed to be an admission of the execution of the document. Far from its being an admission of execution, it is a clear and unambiguous denial of the execution of the document. Where, however, a person though admitting his signature to a particular document viz., a sale deed, a mortgage deed or a lease deed, etc., presented for registration, states that he signed it as he was put in such fear of bodily injury to himself or to those in whom he is interested as to bring the case within the offence of extortion as defined in the Indian Penal Code, the Registering Officer is bound to register for the reasons that the execution of the document is admitted by the executant and that the objection which affects the validity of the document as between the parties thereto cannot be enquired into and adjudicated upon by the Registering Officer.

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

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

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

(e) A Registering Officer cannot register a document of which execution is not admitted by the alleged executant. Execution of a document

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

(f) Execution does not mean mere signing. It would mean the conscious act of entering one's signature after understanding the purport for which the signature is endorsed. Accordingly, only admission of such signatures as are entered after knowing the contents of an instrument has the force of admission of execution. When an executant swears that he did not know the contents of the deed, when he signed it or that he signed it taking it to be an entirely different transaction due to fraud practised on him, mere statement that the signature is his cannot be accepted as admission of execution. On the other hand, it would tantamount to a clear and unambiguous denial of execution as in the case of signature entered on blank paper referred to in order (e) above. Registration has to be refused in all such cases after obtaining sworn depositions from the parties concerned.

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

67. The responsibility for determining whether the executant of a document is in a fit state of mind rests primarily with the Registering Officer; no deposition need be insisted for this. But there is no objection to a Registering Officer recording the deposition of either the party or anyone else in connection with this, if he considers such a step necessary.

68. When the Registrar on appeal made to him by parties, orders the registration of the document, the Sub Registrar need not record the admission of execution by the executants.

69. *Statements of witnesses to be recorded, when execution is denied.*—(a) When the execution of a document is denied, the statements of witnesses who are examined to prove the identity of the alleged executant shall be recorded in the deposition book, the signatures and thumb impressions of the witnesses being obtained at the foot of the depositions. Their signatures need not be taken on the back of the documents.

(b) The Deposition Book referred to in Rule 179 (11) of the Registration rules, shall be bound books applied on indent by the superintendents of Government Presses.

(c) Before a deposition book is brought into use, the pages of the deposition book shall be numbered throughout in ink and the number of