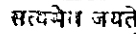


DELHI ADMINISTRATION

REGISTRATION DEPARTMENT



MANUAL

(Volume--II)

(As amended up-to-date)

1976

Issued by

THE INSPECTOR GENERAL OF REGISTRATION

DELHI ADMINISTRATION

2, Battery Lane, Rajpur Road

DELHI-110006

PREFACE

1. The Punjab Registration Manual (1929 Edition) has been in force in Delhi so far. With the passage of time it had become substantially obsolete. Moreover, the peculiar administrative requirements of the national Capital further necessitated the revision of the Manual. In order to ensure that the Registering officers are able to perform their duties effectively and smoothly, it was decided to re-write the Manual.

2. For the sake of convenience, the Manual has been divided into two Volumes. Volume—I consists of :—

- (a) Indian Registration Act, 1908 (16 of 1908) as amended upto-to-date.
- (b) Notification/Orders issued by the Administrator, Delhi, u/s 78 of the said Act ; and
- (c) The rules framed by the I.G.R. u/s 69 of the said Act with the prior approval of the administrator, Delhi.

Volume-II contains;

- (a) Executive instructions issued by the I.G.R. for the guidance of the Registering Officers.
- (b) The duties and responsibilities imposed on the Registering Officers by various other laws ; and

Volume-II is meant for official use only.

3. Shri S.K. Sharma, Collector of Stamps, with his exhaustive knowledge of the law and practical experience played an important role in the preparation of this Manual.

K.S. Baidwan, I.A.S.,
Inspector General of Registration,
DELHI

Dated Delhi the 12th October, 1976.

DELHI REGISTRATION MANUAL

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CHAPTER—I

EXECUTIVE INSTRUCTIONS

Issued by the Inspector General of Registration vide Order No.
F. 1(13)/Regn./75-76/dated 13-8-1976.

OFFICE OF THE INSPECTOR GENERAL OF REGISTRATION
2, BATTERY LANE ; RAJPUR ROAD; DELHI.

No. F.1(13)/Regn./75-76

Dated 13-8-76

ORDER

With a view to streamline the working of the Registration Offices and to help the concerned officials to discharge their duties and responsibilities effectively and properly under the Indian Registration Act as well as under other enactments, the following instructions are hereby issued.

2. These instructions are in addition to the statutory rules and such other orders as may be issued from time to time. Unless otherwise specifically indicated in a particular para(s), the word 'Act' refers to the Indian Registration Act, 1908.

3. These instructions come into force with immediate effect. The executive instructions contained in the Punjab Registration Manual (1929 Edition) which were so far in force in Delhi, hereby stand superseded.

Sd/-
(K. S. BAIDWAN)
INSPECTOR GENERAL OF REGISTRATION
DELHI

EXECUTIVE INSTRUCTIONS

Issued by the Inspector General of Registration vide Order No. F.1(13)/Regn./75-76 dated 13-8-1976.

1. Arrangement in the absence of a Sub-Registrar:

Section 12 of the Act provides for filling temporary vacancies of the Sub-Registrar. When a subordinate registering officer proceeds on leave of absence, or is otherwise temporarily away from the office, the Registrar will make such arrangements to give the additional charge to any other Sub-Registrar so as to see that the continuity of the business of the office is maintained, and the intimation of such appointment shall be sent to the Inspector General of Registration.

2. Verification of existence of testators:

It is not incumbent on the Registrar to verify from time to time the existence of testators, whose wills have been deposited with him for safe custody. All depositors of Wills should, therefore, be informed that no steps will be taken by the Government to ascertain the fact of their death and to communicate, after their death, with their beneficiaries.

3. Catalogue to be signed on changes of personnel.

Whenever there is a change of registering officer, the catalogue of permanent records referred to in Rule 8 contained in Part III shall be signed by the relieved and relieving registering officers.

4. Books to be kept in the offices of Registrar & Sub-Registrars:

(1) In the office of Registrar and every Sub-Registrar, the following books shall be maintained :—

Book I/Addl. Book I.

Supplementary Book.

Book II

Book III

Book IV

(2) The Registrar shall also keep an Additional Book called Book V.

(3) In addition to the Books specified above, there shall be kept in every registry office memorandum book to be called Book No. VI for the purpose of recording brief abstracts of powers of attorney authenticated under clause (1) of section 33 of the Act. It shall contain the following headings:—

(1) Serial No.

(2) Date (year, month, day)

- (3) Name and addition of attorney,
- (4) Names of persons identifying the principal.
- (5) Value of stamp; amount of fees levied; and brief abstract of contents of power.

(4) In the last of these columns it shall be noted, amongst other things, whether the instrument gives express or implied authority to the attorney to present a document for registration; whether the power is a special or a general one; and if special, in what registration office it is intended to be used. It is not necessary to copy out the document in extenso.

5. Authentication of powers of Attorney by registering officer :

To prevent mistakes, it may be explained that the only description of power of attorney, which a registering officer is competent to authenticate under section 3 of the Act is one which contains authority to present for registration a document executed by the principal, and this is the only kind of power of which entries should be made in Book VI. Such a power of attorney may, of course, be registered like any other document, but it will not be valid for registration purposes unless it has been authenticated under section 33 of the Act. Accordingly, when a power of attorney is presented by a person who presumably does not understand the distinction between registration and authentication, and it is not a power which the registering officer can authenticate, he shall register the document in his book IV. If, however, the power contains authority to present for registration a document executed by the principal, the registering officer shall explain the difference between authentication and registration, and ascertain the presentor's exact wishes in respect of the document. There is nothing, of course, to prevent such a document being registered as well as authenticated if the principal wishes it, but in that case the two operations shall be treated as separate transactions, and the usual fees shall be levied for both. If the power of attorney confers other powers besides an authority to present for registration a document executed by the principal, it must be registered in Book IV and will also be authenticated and entered in Book VI of the presentor's wishes.

6. Supply of Books:

The above mentioned books shall be maintained in the shape of butts wherein the documents shall be securely pasted and properly page numbered. These butts shall be bound in volumes of convenient size, the number of pages in each volume being certified on the title page. The volumes should be numbered consecutively and the number shall not terminate with the Calendar year, but shall run on perpetually.

7. Certificates of examination when a volume is filled up.

When a volume is filled up, the registering officer shall certify after the last page, the numbers of copies of the documents pasted therein and the numbers of pages on which they are pasted. He shall also examine those pasted copies and note in his certificate any errors or defects that he may discover.

SUPPLY OF BLANK REGISTER ETC.

8. Application for blank Books and Forms:

(1) Applications should be made by the Sub-Registrars to the Inspector General of Registration's office for such blank registers and receipt books as may be required; the application may conveniently be in the form shown below and should be made in ample time to admit of the arrival of the books before they are actually required. The name of the applying officer, the description of book required and (in the case of registers) the number of the volume, should be stated in the application. A similar procedure should be followed in applying for indices and other printed forms supplied from the Inspector General of Registration's office. Registering officers on receipt of register books will, at once, make the examination and record the certificate about the number of pages it contains on its title page.

Application for blank books and forms

Office of Sub-Registrar of.....

Volume.....Book.....being nearly
filled, Volume.....is required

Date.....

Signature.....

Office of Inspector General of Registration

Volume.....Book.....is this day
forwarded. Its receipt should be acknowledged.

Date.....

Signature.....

Office of Sub-Registrar of.....

Volume.....Book.....has this day
been received.

Date.....

Signature.....

(2) As soon as the supplies are received, their number should be carefully checked by the indenting officer, who should satisfy himself that they are in accordance with the indent applied for, before signing the receipt for them.

(3) To prevent wastage of registration books and forms, a register should be kept in each registration office in the form given below :—

Date	Opening Balance	Receipts	Issue	Closing Balance	Initials of the issuing officer
1	2	3	4	5	6

9. Instructions as to the books in which document should be registered :

(1) When a document is admitted to registration, the registering officer has to determine in which book it should be registered. This is very important matter, not only because some of the books are open to public inspection while others are not, and because the rates of fee differ, but also because questions of jurisdiction and limitation are involved. Ordinarily no difficulty will be experienced in determining for the purposes of the Act, what is and what is not "immoveable property" but as occasionally doubts may arise, the following definition should be of guidance to registering officers.

"Immoveable property includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to any thing which is attached to the earth, but not standing timber, growing crops or grass".

Explanations :—

(a) *Hereditary allowances* :—These are allowances which are payable out of the income of land and buildings and also allowances incidental to a hereditary office.

(b) *Ferry* : A franchise of ferry consists in the exclusive right to carry for hire goods or passengers by means of boats across a river or arm of the sea from one point to another. A ferry is a highway common to all paying the toll usually across a large and deep water. The right of ferry or interest therein has been held to be immoveable property.

(c) *Fishery* :—The term 'fishery' means either an extent of land covered with water containing fish, or a right to take fish or certain class of fish from a defined stretch of water. An exclusive right of fishery is an interest in immoveable property and can be acquired by adverse possession.

(d) *Any other benefit to arise out of land* :—The benefit to arise out of land implies a benefit which would arise as an incident of the ownership of land. The expression 'benefit to arise out of land' generally denotes *profit a prendre* viz. a fishery right, etc. The following have been held to be benefits to arise out of land :—

- (1) The right to collect bazar dues upon a given piece of land.
- (2) A right to receive future rent and profit of land.
- (3) A right to recover assessment from tenants.
- (4) A right to hold market is an incident to ownership of land.
- (5) A right to enter upon land and sever something and take it away is a benefit that arises out of land.
- (6) The right of tapping the palm trees is a benefit arising out of land within meaning of the statutory definition given in section 3 (26) of the General Clauses Act and also in section 2 (6) of the Indian Registration Act.

The following have been held to be NOT benefits to arise out of land :

- (1) The right of Government vendor or a statutory authority to levy tolls.
- (2) A claim to maintenance.
- (3) A right to collect rent which has already accrued.
- (4) Profits of land already due by a lambardar to a co-sharer.
- (5) The right to collect the fees of slaughter houses.

(e) *Attached to Earth* :—The phrase 'attached to earth' is not defined in the Act itself. It has, however, been defined by the Transfer of Property Act, 1882 (IV of 1882), Sec. 3, as follows :—

- (a) rooted in earth, as in the case of trees and shrubs ;
- (b) imbedded in the earth, as in the case of wells or buildings ;
- (c) attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached :

(f) *Permanently fastened to anything which is attached to earth* :—A thing will be immoveable property, if it is attached to the earth or is permanently fastened to anything attached to the earth.

10. Instructions as to instruments of adoption :

Instruments of adoption often give rise to doubt as to their proper treatment in a registration office. The following instructions in regard to their registration should be followed :—

(a) Deeds of adoption, as generally met with in practice, may be divided into four classes :—

- (i) deeds which recite the fact of adoption only ;

- (ii) deeds which recite the fact of adoption, and convey the property of the adoptive father to the adopted son during the life time of the former ;
- (iii) deeds which recite the fact of adoption, and will the property to the adopted son after the adoptive father's death ;
- (iv) adoption deeds executed by widows in pursuance of an authority to adopt.

(b) Instruments of the first category fall under clause (f) of section 18 of the Act, and their registration is optional, but they must be presented, if registration is desired, within the time allowed in Part IV of the Act. They should be registered in book 4. They are chargeable with stamp duty under Article 3 of Schedule 1 of the Indian Stamp Act, 1899.

(c) Instruments of the second category should always be recorded in the registers and statistical returns as 'Instrument of Gift' (hibe-nama). They must be brought for registration within the period of limitation allowed in Part IV of the Act, but are subject to different treatment accordingly as the property transferred is immoveable or moveable. Where the property transferred or any part thereof is immoveable, the instrument falls under clause(s) of sub-section (i) of section 17, and registration is compulsory. The registration should be made in additional book No. 1, the fee payable being according to the Table of Registration Fees; as may be notified under the Act from time to time. Where the whole of the property conveyed is moveable, the instrument falls under clause (b) of section 18 of the Act and registration is optional. The instrument should be registered in book IV and the fee charged according to the Table of Registration Fees. In either case, the instrument must be stamped as a conveyance on the value of the property transferred under Article 23 of Schedule 1-A, or as an adoption deed under Article 3 of Schedule 1-A of the Indian Stamp Act, 1899, whichever is highest (See section 6 of the Indian Stamp Act, 1899).

(d) Instruments of the third category fall under two heads : —

- (a) Deeds intended to operate as wills and reciting the fact of adoption only incidentally :
- (b) Deeds intended to operate as those of adoption and containing also a provision that the adoptee would succeed to the property of the adoptive father after death of the latter.

The deeds falling under (a) must be recorded and treated in every respect as wills (Wasiyat-nama). Their registration is optional under clause (e) of section 18 of the Act, and they may be presented at any time (section 27). They must be registered in Book III, and are liable to a registration fee, as per

Table of Registration Fees, but are exempt from stamp duty. Instruments coming under (b) must be treated as deeds of adoption for purposes of stamp duty as well as registration fees.

(e) Instruments of the fourth category must be treated in every respect like those of the first category but care must be taken to distinguish between instruments conferring authority to adopt a son (ijazat-nama tabniyat) and adoption deeds executed in pursuance of such authority. The registration of an authority to adopt is compulsory, while that of an adoption-deed is optional; the former must be registered in Book III, the latter in Book IV, the registration fee being according to the Table of Registration Fees. Both instruments are, however, alike chargeable with stamp duty under Article 3 of Schedule 1—A of the Indian Stamp Act, 1899.

Adoption Deeds not uncommonly contain stipulations on the part of the adoptive father for the maintenance of the adopted son, and provisions for his marriage expenses. Such stipulations are to be regarded only as a record of the duties which are imposed by the law itself, without express mention upon the adoptive father, and do not bring the deeds which contain them within the definition of "Agreement" contained in section 2 of the Indian Contract Act, 1872.

11. Description of 'Will':

To prevent mistakes, it may be explained that every document making posthumous disposition of property is 'Will' and should, when registered, be entered in Book III. Further that a document which merely declares the fact of having adopted a son, or given a son for adoption, 'is not an authority to adopt' and should not be entered in this Book unless it contains testamentary dispositions which bring it within the definition of 'Will' given above.

12. Distinction between leases and mortgages:

Care should be taken to distinguish between deeds of lease and deeds of mortgage for a limited period and the classification adopted by the Deed-Writer should not always be followed. Generally speaking, it may be said that if land is transferred in order to secure the repayment of a lump-sum of money advanced to, or due from the owner of the land, the deed is usually a mortgage deed, whereas in the case of a lease the land is transferred on account of a future recurring annual payment. If registering officers hold that a so-called lease presented to them for registration is really a deed of mortgage, they should treat it as such for the assessment of stamp duty and registration fees, and if it is under-stamped, should impound it. The real nature of the deed should, of course, be shown in column 2 of Book I.

13. Names of subsidiary books:

The following subsidiary books must be maintained in the office of every Sub-Registrar :—

- (a) Fees Book
- (b) Receipt Books 'A' & 'B'
- (c) Guard File.

14. Fees Book:

(1) The Fees Book shall be kept in bound volume containing 100 or 200 pages each being supplied from the office of the Inspector General of Registration. This book must be written up daily, the registration fees, realised on each document being shown separately, and the total collections of the day entered in the appropriate column, copying fees being shown separately from other fees. This daily total must be verified by the registering officer who shall affix his signature in token of such verification. On the last account day of each month, the several columns of the fees book shall be totalled, the totals being written in red ink, both in words and figures, and signed by the registering officer.

(2) Fees realised in the registration offices shall be paid in the treasury daily and the third copy of the challan pasted in the fees book. All sums received subsequently to the closing of treasury for the day shall be credited the next day alongwith receipt upto the hour of closing of the treasury accounts for that day and so on. All sums taken on any day on which the treasury is closed owing to a holiday shall be credited on the day on which the treasury or sub-treasury re-opens. The words "treasury closed" should, however, be written in the fees book against the fees of the day not credited for this reason.

(3) Registering Officers should be careful to see that the correct amount of fees is levied in each case. It must be remembered that when under section 65, 66 or 87 of the Act, several copies of a documents have to be made, owing to the property concerned being situated in more than one district, a copying fee under Article III of the Table of Registration Fees should be charged upon each copy; but no copying fees should be levied for memoranda sent to other offices under those sections, no provision being made in the existing Table of Fees for levying copying fees on such memoranda.

(4) Registering officers are also personally responsible that all fees, including fees for copies, are correctly shown in the accounts, and are properly credited in the treasury. Copying fees must be credited at the same time as other registration fees, each day.

15. Receipt Books.

(i) Receipt books are supplied from the office of the Inspector General of Registration. The forms of three kinds of receipts are given in Appendix I, II & III to the Manual. Each volume of receipt book 'A' contains 100 or 200 printed forms and each form is divided into three parts, viz. :—

- (a) containing particulars for identifying the document presented for registration, an and acknowledgement of the receipt of the prescribed registration fees—this part is to be filled up, torn off, and given to the presenter on realisation of the fees;
- (b) containing a brief description of the document, and an acknowledgement of its receipt for registration—this part is the "receipt" mentioned in section 52 of the Act, and it should be filled up, torn off and given to the person presenting the document, at the same time as the receipt for the fees;
- (c) the counterfoil which remain permanently in the book.

(2) These receipts are to be numbered consecutively, a fresh series being commenced for each calendar year, registering officers should see that they are given in the order in which documents are presented for registration, that all prescribed particulars are filled in, that in the place for description of property it is stated whether such property is immovable or movable, and, in the case of a mortgage, whether it is with or without possession, and, lastly, that the name of executant and not (as is some times erroneously done) the name of the scribe, is noted in the place provided for this purpose.

(3) When the document is about to be returned after registration to the party who presented it, or to such other person as he may have nominated to receive it in the manner described in section 61 of the Act, the original copy of the receipt or its duplicate (issued on payment) should be taken back from him and his acknowledgement obtained on the back of the counterfoil/office copy of the receipt.

(4) When all the receipt forms in a volume have been used and re-pasted as described above, the Sub-Registrar should forward it to the Registrar, who shall cause it to be carefully examined so as to see, in each case that the fees have been correctly levied, that the document was duly stamped, and that there has been no undue delay in returning it; and he will take such action thereon as may seem to him to be necessary. Thereafter, he will retain the book in his office until sanction is given, in due course, for its destruction.

(5) Receipt Book 'B' is for receipts for all fees etc., which are paid at times other than those on which a document is presented.

(6) Receipt Book 'C' containing 20 pages is for receipts to be granted by the Registrar in acknowledgement of the receipt of fees recovered for sealed Wills deposited under section 42 of the Act.

16. Separate file Book for documents in languages not in use in Union Territory of Delhi.

16. A separate file book should be opened in every Registration Office in the same form as Supplementary Book No. I (Paragraph 15 of the Rules contained in Part III Vol I of the Manual) and all copies and translations of documents written in languages not in common use in the Union Territory of Delhi and registered in Books I, III, IV and Addl. Book I shall be filed in it. The number and the date of registration of the document to which the copy and the translation appertain should be noted thereon alongwith the volume and page where the copy of document will be found. Translations and copies should be pasted in the file book immediately after the document to which they appertain, have been copied in the appropriate Books as otherwise there is a danger of their being lost or injured. In all cases the three printed columns of the paged slips should be filled up. The certificates at the beginning and at end of each volumes and the annual certificates must be recorded in this Book, in the same manner as other registers.

17. Guard File:

17. The Guard file is a book in which should be filed all orders of permanent nature received in the Sub-Registrar's office, whether emanating from the Inspector General of Registration or the Registrar or any other authority. All orders of this nature should be pasted in as soon as received, and should not be allowed to lie about in a loose condition.

A list should be prepared for each year and pasted into the Guard File, containing a brief description of all orders so filed. This list should not be made up at the end of the year but written up from time to time as orders are filed.

18. Miscellaneous records

(1) Besides the foregoing books, the offices of Sub-Registrars should contain the following records, in addition to such other as the Registrar of the District may direct or the Inspector General of Registration may from time to time prescribe—

- (a) Powers of attorney authenticated under section 33 of the Act, presented by agents bringing documents for registration (paragraph 35 of this Part) to be kept in annual bundles ;
- (b) Copies of decrees of courts ordering cancellation of registered documents, received under section 39 of the Specific Relief Act, 1877 and copies of decree of Civil Courts directing registration of documents under section 77 of the Act to be kept in annual bundles ;

- (c) A copy of current Table of Fees.
 - (d) A copy of Indian Stamp Act and Registration Manual.
 - (e) A despatch book for all papers issued from this office.
- (2) The despatch book will be in the following forms :—

Serial No.	Date of despatch	Subject of paper despatched	Address	Signature of receiver or No. and date of postal receipt
1	2	3	4	5

19. Files of applications for copies

(1) Applications for copies of registered documents shall be kept in an annual bundle, apart from other miscellaneous papers.

(2) An index shall be attached to this bundle, giving (a) serial number for the year, (b) date of application, (c) name of applicant, (d) amount of fees realised and (e) date of grant of copy.

(3) On receipt of an application for a copy space (a), (b) and (c) will be filled up, and the serial number endorsed on the application; after the copy has been given to the applicant, space (d) and (e) will be filled in, and the application filled in its proper place.

20. Use for English numerals.

(1) English numerals should be used in all the books and documents.

21. Entries in registers to be made with permanent black ink.

It should be borne in mind that the registers are permanent records ; care should accordingly be taken that all entries made in them are written in permanent black ink. The use of fancy-coloured aniline and other evanescent inks is absolutely forbidden. The same rule applies to documents filed in Supplementary Book I, and a registering officer receiving a document to be so filed, written with evanescent ink, should not file it, but return it to the sender with a view to its being re-written with permanent ink.

22. Place of presentation.

Documents must ordinarily be presented and registered at the registration office at the headquarters of each district or sub-district, as the case may be, but, as provided by the Act, on special cause being shown registering officers may proceed to the private residence of any person desiring to present a document and accept it there for registration. This permission, however, must not be interpreted as extending to the acceptance of documents for registration at the private residence of the registering officer.

23. Payment of visits and issue of commissions.

Section 38 of the Act exempts from personal appearance at a registration office, persons unable from bodily infirmity to attend without risk or serious inconvenience, persons in Jail, and persons exempt by law from personal appearance in Court. In every such case the law requires that the registering officer shall either himself go to the house of such person, or to the Jail in which he is confined, and examine him, or issue a commission for his examination.

24. Examination as to stamp.

When a document is presented for registration, the first duty of the registering officer is to examine it so as to see that it is duly stamped. This is an obligation imposed by law, which must take precedence over all other procedures.

25. Exemption from stamp duty on instruments to which Government is a party.

(1) When an instrument executed on unstamped paper is presented for registration and exemption from stamp duty is claimed under the general exemption in favour of Government contained in proviso (1) to section 3 of the Indian Stamp Act, 1899, it will be the duty of the registering officer, before accepting the instrument for registration, to satisfy himself :

- (a) that it was executed by, or on behalf of, or in favour of Government ; and
- (b) that, but for the exemption, Government would be liable to pay the stamp duty.

(2) On the second point difficulty will seldom, if ever arise, distinct provision being made in section 29 of the Indian Stamp Act, 1899, as to the party liable for duty ; and as to the first point, the instrument itself will ordinarily disclose on its face whether it was executed by or on behalf of, or in favour of Government. Occasionally, however, such instruments are drawn so as to disclose that they have been executed by, or on behalf, or in favour, not of Government, but of an officer of Government described by name and official designation ; and in such cases reasonable doubt may arise as to whether the officer concerned acted in a private or public capacity, and if the latter, whether as representing the Government or some other public body (such as a municipal committee) not exempted by proviso (1) to section 3 of the Indian Stamp Act, 1899. In cases of this kind the registering officer must satisfy himself that Government is a party to the transaction. To this end, he should, where a Government officer is the executant, apply to that officer direct for the

necessary information under section 88 of the Act; and in other cases he may take evidence under the provisions of section 35, 36 and 66 of the Act. Should the enquiry prove satisfactory, he will accept the document for registration (if admissible in other respects) endorsing thereon that after enquiry he has satisfied himself that it is exempt from stamp duty under proviso (1) to section 3 of the Indian Stamp Act, 1899.

26. Stamp duty chargeable on bai-bil wafa deed.

(1) The class of instruments known as "bai-bil wafa" or conditional sales, must for the purposes of stamp duty be treated as mortgage deeds chargeable under clause (a) or clause (b) of Article 40, Schedule-I, 'A' of the Indian Stamp Act, 1899; according as at the time of execution, possession of the property or any part of the property comprised in the deed is given by the executant, or agreed to be given, or not.

(2) Deeds of mortgage without possession containing a condition that possession will be given if the terms of the mortgage are not complied with by the mortgagors are chargeable with stamp duty under clause (b), and not under clause (a) of Article 40, Schedule-I, 'A' of the Indian Stamp Act, 1899.

27. Impounding of documents not duly stamped.

If the registering officer is of opinion that a document presented to him is not duly stamped, he shall impound it under section 33 of the Indian Stamp Act, 1899, and send it to the Collector to be dealt with under section 40 of the Act.

28. Examination as to jurisdiction.

(1) When the registering officer is satisfied that the document presented to him for registration is duly stamped, he will examine it to see whether he has authority to register it, and in this connection Parts V and VII of the Act should be consulted. For the purposes of jurisdiction, documents may be grouped into four classes:—

- (a) non-testamentary documents relating to immovable property, mentioned in clauses (a) to (d) of section 17, and clauses (a) to (c) of section 18 of the Act;
- (b) Wills and authorities to adopt;
- (c) copies of decrees and orders of court;
- (d) all other documents.

(2) Instruments of the first class may be accepted for registration by any Sub-Registrar within whose sub-district any portion of the property concerned is situated. Instruments of the second class may be registered in

any office. A copy of a decree or order may be registered in the office of the Sub-Registrar in whose sub-district the decree or order was made, or (if it does not affect immovable property) in the office of any other Sub-Registrar under the Delhi Administration at which all the persons claiming under the decree or order desire the copy to be registered. A document of the fourth class may be registered either at the office of the Sub-Registrar at the place of execution, or, at the instance of the executants and persons claiming under it, in the office of any other Sub-Registrar in the Union Territory of Delhi.

29. Jurisdiction of Registrar.

Registrar may accept for registration any document which might be accepted by any Sub-Registrar subordinate to him. The Registrar in the Union Territory of Delhi is empowered under sub-section (2) of section 30 to register documents relating to property situated in any part of India except documents relating to the property situated in Andhra Pradesh in view of the omission of section 30(2) and 67 made by the Andhra Pradesh Government in the Indian Registration Act, 1908. There is no objection to the registering of documents under clauses (a) (b), (c) and (d) of sub-section (1) of section 17, and clauses (a), (b) and (c) of section 18 of the Act when they relate to immovable property situated in India. It should be noted also that entries of transfers of immovable property made in the registers of cantonment authorities and municipal committees are no evidence of title, and cannot take the place of registration under the Act. Deeds of sale of immovable property executed by local bodies require registration when the value is Rs. 100 or more.

30. Discretionary registration by Registrar.

Registrar should exercise the discretion referred to in the preceding paragraph with due regard to public convenience. When the document is a will or authority to adopt, or when it relates to a transaction in which the Sub-Registrar having jurisdiction is pecuniarily interested, the Registrar should never refuse to accept it for registration, except for very cogent reasons. When the Registrar decides that a document presented to him under section 30 of the Act ought to be registered in the office of a Sub-Registrar, he shall return it to the person presenting it without recording an order of refusal either on the document or in his Book No. II.

31. Procedure when registering officer has no jurisdiction.

If the registering officer finds he has no jurisdiction to register a document presented to him, he shall return it to the presenter without recording any order of refusal, and inform the presenter at what offices he can obtain registration.

32. Examination as to time

When the registering officer finds he has jurisdiction, he shall examine the document to see that it has been presented within the time allowed by Part IV of Indian Registration Act, 1908. Wills may be presented at any time; other documents should ordinarily be presented within four months from the date of execution; but the Registrar may, on urgent necessity or unavoidable accident being shown, direct documents presented more than four months after execution to be accepted for registration on payment of the fine prescribed in Rule 43 (See part III) of Vol. I provided that the delay in presenting the document does not exceed four months. A Sub-Registrar has no authority to register a document (other than a Will) executed in India more than four months before the date of presentation without a direction to that effect from the Registrar, but an application for such a direction may be lodged with the Sub-Registrar, and should be sent on to the Registrar at once for orders. Documents executed out of India must be presented for registration within four months of their arrival in India. If the period of limitation for presentation or for appearance to admit execution of document prescribed by the Act or extended by the Registrar, expires on a day on which the registration office is closed, the presentation or appearance shall be considered to have been made in due time if it is made on the first day of the opening of the office thereafter, vide section 10 of the General Clauses Act, 1897.

33. Examination as to unverified intrepolations, etc.

If the document is brought for registration within the time allowed by law, the registering officer will see whether it contains any unverified interlineations, blanks, erasures or alterations of the kind mentioned in section 20 of the Act; and, in the case of documents relating to immovable property, whether the description of the property is sufficient for identification. If he is not satisfied on either of these points, he may return the document to the presenter for remedy of the defect. Foreign documents should not be accepted unless accompanied by the translations and copies required by section 19, and documents of the kind mentioned in sub-section (4) of section 21 of the Act unless accompanied by the required copy or copies of the map/plan.

34. Parties entitled to present for registration

If the document is not open to any of the objections set-forth in paragraph 29, the registering officer, before finally accepting it for registration, shall satisfy himself that the person presenting it has legal authority

to do so. The persons who may present a document for registration are the following :—

- (a) in the case of a will, the testator, and after his death, any person claiming under it as executor or otherwise;
- (b) in the case of an authority to adopt, the donor, and after his death the donee or the adopted son;
- (c) in the case of a copy of a decree or order, any person claiming under the decree or order;
- (d) in any other case, any person executing or claiming under the document.
- (e) the representative, assign, or agent of any of the foregoing persons.

35. Presentation by representatives, assigns and agents

(1) If the document is presented by a representative or assign, he must satisfy the registering officer of his status; if by an agent, he must produce a power of attorney authenticated in the manner prescribed in section 33 of the Act, but care must be taken to distinguish between deeds executed by agents in pursuance of power in that behalf conferred upon them by their principals, and deeds executed by principals presented for registration by agents empowered in that behalf. It is not the duty of the registering officer to satisfy himself of the power of an agent, who is the actual executant of an instrument, to execute it, i. e. to deal with the property forming the subject matter of the deed. His duty is confined to the question whether the persons purporting to have executed the instrument have in fact done so or not. There are three possible cases :—

- (a) where the actual executant, or person claiming under the instrument appears;
- (b) where a representative, or an assign of such person, appears,
- (c) where an agent of either of the above persons appears.

(2) In the first case, the officer has simply to ascertain whether the person so appearing does or does not admit execution, and his identity. In the second case, the officer has further to satisfy himself as to the right of the representative or the assign to appear in that capacity and to admit execution. In the third case, the officer has simply to see whether the person appearing is an agent duly empowered as prescribed by section 33 of the Act to appear and bind his principal, viz., the executant, person claiming under the instrument, representative or assign—with an admission of execution.

36. Officials exempt from appearance.

It must be borne in mind that officers of Government, and the other officials mentioned in section 83 of the Act, are not required to appear at registration offices in their official capacity either in person or by agent.

37. Identification of parties.

When the registering officer is not personally acquainted with the executants, he should require them to produce persons, who are personally known to him or to some other person whom he personally knows or of whose identity and reliability he is otherwise fully satisfied to testify their identity. Stamp Agents and the Deed writers should never be allowed to identify executants whose deed they have written, and in any case as a rule the registering officer should not accept persons of this class as witnesses of identity, nor should they have resort to their own persons for this purpose. Preference should be given where possible to witnesses living in the executants neighbourhood and of his class of life. An interested party to a deed should not be allowed to identify executants of the deed.

38. Taking of thumb impressions.

(1) Registering officers should have the thumb mark of any person who presents a document for registration, taken under the endorsement prescribed under section 52 of the Act and that of any person who admits the execution of a document taken, under the endorsement, prescribed by clause (a) of sub-section (1) of section 58 of the Act. The left thumb should generally be used by the person making the impression unless the registering officer thinks fit for any reason to have an impression of the right thumb taken. All impressions should be taken in the presence of the officer registering the deed affected after the parties have been duly identified, and he should note in the certificate prescribed under section 60 of the Act that this was done. When the registering officer, who has recorded the endorsement required by section 58 of the Act, on the original deed, has to leave the station before the deed can be pasted in the appropriate book and the section 60 certificate recorded, he should record the following certificate after the section 58 endorsement :—

“Certified that the left (or right as the case may be) hand thumb impression of the executant has been affixed in my presence.”

The certificate should be dated and signed by the departing registering officer. It will not then be necessary to record any note as to thumb-impressions in the certificate prescribed by section 60 of the Act which will be signed by the succeeding registering officer. Printer's ink alone should be used for taking thumb impressions.

(2) Registering officers may in their discretion relax this rule in the case of any person who is fully literate and of good standing and take such person's signature only.

39. Enquiry as to consideration.

As prescribed by section 58 of the Act, the endorsement referred to in rule 47 contained in Part III of Vol. I of the manual should mention, amongst other particulars, any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution. Parties executing documents admitting the passing of valuable consideration should be asked by the registering officer whether they have received such consideration, and warned of the consequences of a false statement. Where registering officers suspect that there has been deliberate swindling, they should report the circumstances to the Deputy Commissioner/Inspector General of Registration, who will take measures, if necessary, to enforce the law.

40. Procedure when there are several executants.

When a document is purported to have been executed by more than one person, the process described in the preceding paragraphs must be observed in the case of each, but it is not essential that all the alleged executants should appear before the registering officer simultaneously; the identification and admission of as many executants as are present should at once be recorded, and registration of the document should be postponed until the appearance, subsequently, of the others. In such a case a single fee will be charged, and not a separate fee for each executant or appearance.

41. Sub-Registrars not to register documents relating to transactions in which they are interested.

Sub-Registrars should avoid registering documents referring to transactions in which they have a personal interest, direct or indirect. On such documents being presented to them for registration, they should forward them to the Registrar, who will deal with them under the discretion allowed to him by section 30 of the Act.

42. Registering Officer not concerned with validity of documents.

Registering Officers should bear in mind that they are in no way concerned with the validity of documents brought to them for registration, and that it would be wrong for them to refuse to register on any such ground as the following, e.g., that the executant was dealing with property not belonging to him, or that the instrument infringed the rights of third persons not parties to the transaction, or that the transaction was fraudulent

or opposed to public policy. These and similar matters are for decision, if necessary, by competent courts of law and registering officers, as such, have nothing to do with them. If the document is presented in a proper manner by a competent person at the proper office within the time allowed by law, and if the registering officer is satisfied that the alleged executant is the person he represents himself to be, and if such person admits execution, the registering officer is bound to register the document without regard to its possible effect.

43. What persons are to be considered to be executors of documents.

(1) The expression "A person executing a documents" shall be held to include ;—

- (a) any person, who becomes surety for the repayment of a loan or the fulfilment of a contract and in that capacity affixes his signature to a document;
- (b) any person, who endorses a negotiable document;
- (c) any person, who signs a receipt or a discharge endorsed on a document;
- (d) any person, who signs a document as an executant in token of his assent to the transaction and not merely as a witness, even though he may not be described as an executant in the body of the document.

(2) In the case of a document purporting to be executed by an attorney, or by a guardian of a minor, or by a legal curator of an idiot or lunatic such attorney or guardian or curator shall be held to be a person executing the document for the purposes of sections 32, 34, 35 and 58 of the Act, but for the purposes of section 55, the principal or minor or idiot or lunatic as well as the attorney or guardian or curator shall be considered to be the executing parties.

Meaning of execution.

(3) The legal meaning of the phrase 'execution of a document is' signing a document as a consenting party thereto' and the word 'signing' includes the affixing of a mark. Before signing a document a man is supposed to take every reasonable means of satisfying himself as to its terms and, if he signs it without due care and attention unless his signature was obtained by illegal compulsion or fraud, he must take the consequences, at least so far as registration of the document is concerned. The registering officer has no option but to accept the document as actually signed and all he can do for the executor in such cases is to record a note of his refusal to endorse the document.

44. Procedure on denial of execution.

If the person by whom the document purports to be executed denies its execution or if he appears to the registering officer to be a minor, an idiot or a lunatic, or if he be dead and his representative or assign denies its execution, the registering officer, if a Sub-Registrar, is bound to record an order of refusal to register. A Sub-Registrar, on any such denial, has no authority except when specially empowered under section 35 of the Act to enquire into the fact of execution, but a Registrar may do so either on appeal from the order of the Sub-Registrar under section 73, or when the denial is made before him under section 74 of the Act.

45. Refusal to admit execution is a denial of execution.

Refusal to admit execution of a document is a denial of execution within the meaning of the Act, as also is a wilful refusal or neglect to attend for the purpose of admitting execution when the summons has been served for such purpose and when such refusal or neglect occurs, a suit will lie under section 77 of the Act, for the purpose of having the document registered. It should be noted that there must be something to show that there was wilful neglect to appear or a wilful evasion of service. Mere non-appearance is not sufficient.

46. Refund of Registration Fees on refusal to register.

In cases in which registration is refused, the Registration Fees received shall be refunded.

47. Copies of reasons of refusal should be stamped with court fee stamps.

The words 'without payment' in section 71 of the Act must be taken as referring to copying fees and not to the stamp, and copies of reasons for refusal should be stamped, with court fee stamps according to Article 9 of Schedule I to the Court Fee Act, 1870.

48. Documents to be promptly returned

The registering officer should see that documents are promptly returned after registration to the presenters or other person authorised to receive them, and the accumulation in the registering office of registered documents should be avoided as much as possible. The presenter should be given a fixed date and fixed time to collect the registered documents.

49. Control to be maintained over Peshi-clerks

Registering officers shall maintain a vigilant control over their peshi-clerks, and not place them in closer contact with the public than is unavoidable. The receiving of documents or of money, the recording of endorse-

ments, and the returning of the documents shall not be left to the peshi-clerks to do whether in the presence or in the absence of the registering officer.

50. Endorsements

Endorsements shall always be written by or in the presence of the registering officer and, except in the case of endorsement recorded under section 60 of the Act, of the parties concerned. All endorsements should be made either in English or in Vernacular. All Sub-Registrars shall record the endorsements required by sections 52 and 58 of the Act, with their own hands, unless they are unavoidably prevented from doing so, in which case the reason of the inability shall invariably be noted with the endorsements on any document thus registered. Suitable forms for endorsements are given in Appendix I and should be adhered to so far as the circumstances of each case permit.

51. Endorsements may be written or continued on riders.

When there is not sufficient vacant space on the back of a document for the necessary endorsements, they may be written or continued on a separate piece of paper attached to the document (vide definition of 'endorsement' in clause (5) of section 2 of the Act); but in such case both the document and its rider must bear the seal and signature of the registering officer.

52. Endorsements in the case of authenticated documents.

When a document is both registered and authenticated (see para 5 ante), the endorsement of authentication under section 33 of the Act should be recorded on it in addition to the ordinary endorsements required under sections 52, 58 and 60, but only the latter endorsements required under Book IV, the particulars required by para 4 (3) ante being entered in Book VI. A certificate under section 60 of the Act is not required on a Power of Attorney authenticated under section 33 of that Act, but a certificate of authentication showing the number of entry, page and volume of Book VI should be recorded on such powers in the form prescribed in Appendix II of these Instructions.

CANCELLATION AND RE-COPYING OF REGISTERED DOCUMENT

53. Cancellation of registered documents by orders of a Court.

53. When under the provisions of section 31 of Specific Relief Act, 1963, any registered document is cancelled by order of a Court, and a copy of the decree is sent to the office in which it was registered, a note as to the cancellation signed by the registering officer of the day, shall be made in red ink in the column of remarks of the Book, in which the document was registered, opposite the copy of the document specifying the Court ordering

cancellation and the number and date of its decree. All copies of decrees received under this Rule shall be filed in annual bundles.

54. Correction of mistake in pasting of documents in proper Book.

When a deed has been pasted into a wrong book, it should be re-pasted into the proper book and a note as to transfer made against the copy. Care should also be taken to correct the entries in the Indices. A mistake of this kind does not invalidate the registration (section 87 of the Act) and fresh fees should not be levied for the re-copying.

55. Errors in consecutive numbering.

When an error has been made in the consecutive numbering of documents registered, as prescribed in section 53 of the Act and the error is not discovered in time to admit of its correction before the document is given back to the presenter or the party authorised by him to receive it, the erroneous number must be allowed to stand, and no subsequent alteration is permitted; but a note of the error shall be made and signed by the registering officer.

56. Memorandum of documents, how to be prepared:

(1) The memorandum of documents registered, required to be made under sections 64, 65, 66 and 67 of the Act, shall be prepared upon printed forms, containing the following headings;—

- (1) Date of execution ;
- (2) name and addition of executant ;
- (3) name and addition of person in whose favour executed ;
- (4) nature and value of transaction ;
- (5) description of immoveable property concerned ;
- (6) particulars of registration.

(2) the "addition" of the persons concerned to be entered under headings (2) and (3) is the 'addition' defined in section 2 of the Act, and the word is to have the same meaning when similarly used throughout this Manual. Under heading (4) the transaction should be described briefly, as "sale of agricultural land", or as the case may be. The description of the property under heading (5) should contain, as nearly as possible, the particulars mentioned in section 21 of the Act, and should always be sufficient for its identification ; and only that portion of the property which is situated in the sub-district to which the memorandum is sent should be entered. Under heading (6) should be shown the date and office of registration, the registry number, and the book, volume and page where it has been registered.

57. Sending of memoranda to be noted in Book I:

(1) When a Sub-Registrar registers a document relating to immovable property, not wholly situated in his own sub-district, he shall note in his Addl. Book I, opposite the entry, in the column provided for remarks the date on which he sends memoranda or copies thereof, under section 64 or 65 of the Act (as the case may be), to the other registering officers concerned.

(2) Similarly, when a Registrar registers documents relating to immovable property not situated in the Union Territory of Delhi, he shall note in his Addl. Book I, opposite the entry, in the column provided for remarks, the date on which he sends memoranda or copies thereof, under section 66 or 67 of the Act (as the case may be), to the registering officers concerned.

(3) Lastly, when a Registrar receives a copy of a document relating to immovable property under section 65 or 66 or 67 of the Act (as the case may be) he shall when filing it in his Supplementary Book I, endorse on such copy the date on which he sends memoranda thereof to the Sub-Registrar concerned.

(4) Registering Officers should see that there is no unnecessary delay in sending memoranda or copies to the other registering officer concerned, and should take severe notice of any neglect or delay on the part of registration Peshi Clerk in the matter.

58. Re-registration for error of description:

Re-registration of a document may take place in the following three cases;—

- (a) the first is where a deed is altered, after registration, by consent of parties, to correct an error of description and in furtherance of their original intention. Such alteration, in effect, makes the document a new one, different from the one already registered; and if it is a document covered by section 17 of the Act, re-registration becomes obligatory. Another mode of correcting such a misdescription is to draw up a supplementary document, reciting the error in the former one and the correction now intended to be made, and to register this document also. Such supplementary document will, however, have to be treated in every respect in the same way as the original, and will be liable to the same fees. Moreover, it should be properly stamped and unless section 4 of the Indian Stamp Act, 1899, operates to reduce the stamp duty, it will generally be found preferable to draw up an entirely new instrument and have it registered;

Re-registration when a document has been executed by several persons at different times:

- (b) in the second place, a document may have to be registered more than once when it purports to be executed by several persons, but at the time of first registration had, in fact, been executed by some only of

those persons. If, after registration, the other persons also execute the document, it must be registered afresh, but in the latter case, limitation will run, under the proviso to section 23 of the Act not from the date of the document, but from the date of the last execution ;

- (c) in the third place, it may be necessary to re-register a document which was presented at the time of its first registration by a person not duly empowered to present it. In such a case any person claiming under the document may present it for registration as provided in section 23-A of the Act.

59. Procedure on re-registration:

Whenever a document is re-registered, it will be treated in all respects as if it were an entirely new document, and must be re-pasted in its altered form in the proper register and the full fees levied. If there is not sufficient room on the back of the document for the new set of endorsement required, owing to its being already occupied with the endorsement recorded at the first registration, they may be written or continued on a separate piece of paper, as provided for in paragraph 51.

APPEALS TO THE REGISTRAR

60. Procedure on appeal:

(1) When an application is made to a Registrar to reverse the order of a Sub-Registrar refusing to admit a document to registration, the Registrar should examine it so as to see, first, whether it was made within time (i.e., 30 days after the date of the order), and secondly, whether it was of the nature of an appeal under section 72 or of an application under section 73 of the Act.

(2) If the application is brought within time, and is of the nature of an appeal under section 72 of the Act, the Registrar shall pass such order thereon as seems to him proper under the circumstances. If it is made within time and is of the nature of an application under section 73 of the Act (i.e., an application to establish a right to have a document registered which the Sub-Registrar has refused to register on account of denial of execution), the Registrar must make the enquiries prescribed in section 74 of the Act, and pass an order accordingly. This is an obligation imposed upon him by law, which he is not at liberty to evade by referring the applicant to a Civil Court.

(3) When the Registrar, after enquiry, directs registration of the document, he should inform the Sub-Registrar concerned thereof. The order directing registration should be endorsed on the document, thus registration ordered, and the document should then be handed back to the applicant with a view to his presenting it for registration at the proper office within the time allowed by law.

61. Effect of Section 89:

- (1) The provisions of section 89 of the Act have the following effect;—
- (a) they render obligatory the registration of all documents of the classes mentioned therein without regard to validity thereof ;
 - (b) the obligation to register is imposed upon the officer granting the loan, or the court or officer granting the certificate (as the case may be) and not upon the person to whom the loan or certificate has been granted, or the person claiming thereunder ;
 - (c) a particular mode of registration is prescribed—the revenue officer is to send a copy of his order, or of the instrument securing repayment of the loan, to the registering officer having jurisdiction; and in similar manner, the court or officer is to send the registering officer a copy of his certificate ; the registering officer will then file such copy in his Supplementary Book I and this is sufficient registration for all legal purposes.

(2) Though the law requires that documents of the kinds in question shall be registered by revenue officers or courts and not by the parties, there is nothing to prevent the holder of such a document, or any person claiming thereunder, from taking it, within four months from its date, to a registering officer having jurisdiction, for registration in the usual way, irrespective of any separate registration effected by the revenue officer or court (as the case may be) ; but every such second registration is entirely voluntary, and in all such cases the registration is to be treated as optional (fees being regulated accordingly), and classed as such in the periodical returns.

62. Monthly returns:

Every Sub-Registrar shall submit to the Registrar the following monthly returns, which should reach the Registrar's office (copy endorsed to Inspector General of Registration) not later than the 5th of every month;—

- 1. Return No. I —Statement of Index.
- 2. Return No. II —Monthly review ;
- 3. Return No. III —Statement of certified copies and fees thereon.
- 4. Return No. IV —Statement of collections during the month.
- 5. Return No. V —Work-load statement.

63. These returns shall be in such forms, as may be prescribed by the Inspector General of Registration from time to time.

64. The monthly returns prescribed in para 62 will be prepared according to calendar month.

65. When the Registrar receives the monthly returns from the Sub-Registrars as described above, he shall examine them carefully to see that they have been properly prepared.

66. The Registrar shall submit to the office of Inspector General of Registration a consolidated monthly statement, along with his comments, if any, after examining the monthly returns received from the office of the Sub-Registrars.

67. The Registrar should see that the latest income of the district for the month under report, as entered in his statement of receipts corresponds with the total registration income credited in the treasury accounts.

68. Transliteration:

In all endorsements and entries proper names of places shall be spelled accordingly.

69. When a fine should be levied for delays in appearance:

(1) When a document has been presented under section 23 of the Act i.e., within four months from the date of its execution, the presenter must take action under section 36 of the Act, to secure the presence of the executant before the lapse of the full period of four months. At the end of the four months the case should be reported to the Registrar, who may, under section 34 of the Act, allow the deed to be registered up to a date not more than eight months from the date of execution subject to the payment of a fine. If the executant appears within eight months, the deed should be registered, otherwise not.

(2) If, however, a document has been presented under section 25 of the Act, that is, if the Registrar has, on payment of a fine, permitted its presentation up to eight months, then the executant must appear within eight months, or the presenter must, within the period of eight months take action under section 36 of the Act to secure his appearance. On the expiration of eight months from the date of execution the Sub-Registrar must report the case to the Registrar, who may order under section 34 of the Act that, on payment of a fine, the deed may be registered up to twelve months from the date of execution.

(3) The period on which the amount of the fine under section 34 of the Act, will be calculated will, in the former case i.e., a case falling under section 23, be from the beginning of the fifth month and, in the latter case i.e., falling under section 25, from the beginning of the ninth month up to the date of the appearance of the executant.

70. Refund of registration and copying fees:

The Delhi Administration has delegated to the Registrar power to sanction refunds of registration and copying fees on account of excess collections and refunds rendered necessary by an order, which Registrar is himself competent to pass. Such refunds do not require the countersignature of the Inspector General of Registration.

71. Report of prosecutions:

Full reports of all prosecutions instituted under part XIV of the Act shall be made to the Inspector General of Registration as soon as possible after decision, and shall be accompanied by a copy of the judgment of the Court.

72. Holidays:

The holidays to be observed in registration offices shall be as notified by Delhi Administration.

73. Supply and Renewal of seals:

When a seal which has become unfit for use is replaced by a new one, the former shall be forwarded to the office of the Inspector General of Registration for destruction. The seals of offices permanently closed shall be dealt with in the same manner; those of offices temporarily closed shall remain in the personal custody of the Registrar. All new seals required for newly created offices, or for the purpose of replacing others, which have become unfit for use, shall be supplied from the office of the Inspector General of Registration.

74. Correspondence of Sub-Registrars with Inspector General of Registration:

Save in emergent and exceptional cases, Sub-Registrars should not correspond with the Inspector General of Registration, except through the Registrar.

75. Transmission of references from Sub-Registrars to Inspector General of Registration:

When the Registrar receives a communication from a Sub-Registrar, which requires a reference to the Inspector General of Registration, he should transmit it in original, accompanied by such remarks as he thinks necessary, and the reply will be communicated in the same way. But where a point of law, or of procedure not already provided for is raised, or where the question is one of general application, the Registrar should refer it for order by means of a letter or memorandum, which should fully state the case and the Registrar's opinion thereon.

76. Speculative references to be discouraged:

Some registering officers, and especially some peshi-clerks, are prone to raise hypothetical questions on points of law or procedure in imaginary cases. This practice should be discouraged, no such question should be permitted, unless it has actually arisen in practice, and a decision on the point is necessary.

77. Inspection of offices of Sub-Registrars

Superintendence and control over Sub-Registrars is conferred upon the Registrar by section 68 of the Act and in order to enable the Registrar to exercise such supervision and control in an efficient manner, it is essential that he should visit the Sub-offices and examine the registers and other records as often as possible. Every Sub-Registrar's Office should be inspected by the Registrar at least once a year. A copy of the inspection note should be sent to Inspector General of Registration.

78. Contents of Inspection Reports

The inspection report should contain the following particulars;—

- (a) office inspected, with names of registering officer and Peshi-clerk;
- (b) dates of present and last inspection; the object being to show how long the office remained without an inspection, and the period to which the report extends;
- (c) statistics of the business done during that period.
- (d) remarks (if any) on the registers;
- (e) remarks on the indices and subsidiary books;
- (f) follow-up action on audit notes of the Stamp Auditors/A.G.'s auditors;
- (g) general remarks.

79. Points to be noted:

Inspecting officers should, of course, note in their reports all errors of procedure and other defects which their inspection may bring to light, both for the Inspector General's information and for avoidance in future by the registering officers; they should also note any other point which appears noteworthy, e.g., abnormal increase or decrease of business with the causes thereof, the general state of the work of the office and similar matters. Reports should be as brief as is compatible with clarity. For example, if the examination of the registers discloses no errors or faults, nor any other matter calling for special remark, it will suffice to write the single word 'nil' under the heading of 'remarks on the registers'. A set of questions to be used as guides in such inspections is given in Appendix III. They must not be taken as exhaustive.

80. Issue of necessary orders to registering officer concerned at the end of inspection:

When the examination of a book has been completed, the inspecting officer should write the word 'examined' after the last entry in it, together with his signature and the date.

DESTRUCTION

81. Annual destruction of useless records:

Each Sub-Registrar and the Peshi Clerk for the Registrar's Office shall, as soon as possible after the close of each Calendar Year, submit to the Registrar a statement, containing proposal for destruction of the documents and records which are not of permanent nature and which, need no longer be preserved. The Registrar, after examining all such statements, shall pass orders for the destruction of such documents and records, as he may consider necessary. While doing so, he shall particularly ensure that no records which are to be subject to audit and in respect of which some audit objection is pending or which had been recently audited but audit report is yet to be received, are destroyed. These statements should be disposed of by Registrar by the 1st March in each year at the latest. A copy of these statements containing the orders of the Registrar shall be forwarded by him to the Inspector General of Registration.

82. Destruction of registered documents:

When a registered document is destroyed under section 85 of the Act, a note to that effect shall be made by Sub-Registrar/Registrar in the Book in which it was registered. When a document, the registration of which has been refused, is destroyed under the same section, a similar note shall be made in the column of remarks opposite the record of refusal in Book-II.

83. Court Fee Stamp on applications:

Applications mentioned in the following list should bear a court fee stamp of the value as shown in the table:—

S. No.	Nature of application/petition submitted to Registrar/ Sub-Registrar	Amount of court fee stamp, if any, affixed
1.	Inspection of Indices	Nil
2.	Inspection of document	Nil
3.	Issue of Certified copies	40 paise court fees.
4.	Condonation of delay	Nil
5.	Application for registration of document at Residence	Nil
6.	Application for compulsory registration of document under Section 36	Nil
7.	Registration of will u/s 40 (after death)	Nil
8.	Application for issue of certified copy of the refusal order	Nil
9.	Appeal	Nil

APPENDIX—I

(Specimen of endorsement U/s 52, 58 & 60)

(Sec. 52)

Presented by Sh./Smt.....
 S/o, W/o.....R/o.....
 in the office of the Registrar/Sub-Registrar, Delhi, this.....
 day of.....19.....between the hours of.....

Registrar/Sub-Registrar,
 Delhi/New Delhi.

(Sec. 58)

Execution admitted by the said Shri/Smt.....
and Sh./Smt.....
S/o, W/o.....R/o.....
 vendor(s) (Mortgagor(s)/Lessor(s)/Lessee(s) who is/are indentified by Sh.....
S/o.....R/o.....
and Sh.....
R/o.....
 marginal witnesses. Witness No. II is known to me.

Contents of the document explained to the parties who understand the conditions and admit them as correct.

Having satisfied myself that this document was duly executed by Shri.....
in his official capacity, his attendance and signature are dispensed with and document is admitted to registration.

Vendor(s) Mortgagor(s) admit(s) prior receipt of entire consideration
 Rs.....Rupees.....
 The balance of entire consideration of Rs.....Rupees.....
has been paid to the vendor(s)/Mortgagor(s) by Sh./Smt.....
S/o, W/o.....R/o.....
vendee(s) Mortgagee(s) in my presence. He/They is/are also identified by the
 aforesaid witnesses.

Registrar/Sub-Registrar
 Delhi/New Delhi.

(Sec. 60)

Registered No.....in additional Book No. I Vol. No.....
 on pages.....to.....on this.....day of.....
19.....and left thumb Impressions have/has
 been taken in my presence.

Registrar/Sub-Registrar,
 Delhi/New Delhi.

APPENDIX II

Form of Certificate to be recorded on every Power of Attorney authen-
 ticated under section 33 of the Act and entered in Book VI

"Entered as No.....in Book VI

Volume.....on page (s)

this.....day of....."

Signature of Registering Officer.

APPENDIX-III

Questions to be used as Guides in the Inspection of Offices of Sub-Registrars

BOOK-1

I. Read over the endorsements of three deeds in each volume registered since the last inspection and note—

- (1) Are the endorsements in the form given in C(6), D(10) and E(18) (or as the case may be) of Appendix-IV ?
- (2) Are they written by the Sub-Registrar with his own hand where this is obligatory ?
- (3) Are both the alienor and alienee identified in a proper manner ?
- (4) Does the Registering Officer certify in the section 60 certificates that thumb marks were taken in his presence ?

II. Read over the important part of 15 deeds in each volume, selecting at least 3 deeds of sale, 3 mortgage deeds, 3 deeds of lease and see—

- (i) Area (a) consideration for and (b) nature of the deed and (c) number of words and (d) copying fees correctly stated in column 2 of the register ?
- (ii) Are stamps shown in column correct ?
- (iii) Have registration fees been correctly assessed ?
- (iv) Are interlineations correctionse tc., in the original deeds copied exactly and noted in the register by the Sub-Registrar in accordance with section 20 of the Indian Registration Act, 1908 ?
- (v) Are references under paragraph 65 duly noted ?
- (vi) Are corrections made in red ink and attested by the registering officer ?
- (vii) Are deeds of mortgage being registered as leases ?
- (viii) Are the provisions of the Punjab Alienation of Land Act, 1900, observed ?
- (ix) If the property is not wholly situated in the sub-districts, did the registering officer send a memorandum or copy of the document to the Sub-Registrar or Registrar concerned and was a fee realised for preparing the copy to be sent to the Registrar ? See Sections 64 and 65 of the Indian Registration Act, 1908.

- (x) Had the Sub-Registrar jurisdiction to register, see sections 28 and 29 of the Indian Registration Act, 1908 and paragraph 116, and were the documents presented within time ? See sections 23, 25 and 34 of the Indian Registration Act, 1908.
- III. Are documents consecutively numbered by the calendar year (Section 53); and are the provisions of paragraph 103 observed ?
- IV. Are certificates at the end of the year and of a volume in the proper form, and are lists of errors attached to them in a tabular form ?
- V. Has the registering officer examined each volume on receiving it from the office of the Registrar ?
- VI. See that only vernacular figures are used in the registers ?
- VII. Is the cancellation or amendment of deeds by the civil courts or by the Deputy Commissioner noted in red ink ?

SUPPLEMENTARY BOOK I

- I. Are headings of the butts properly filled up ?
- II. Are endorsements on memos and copies properly made ?
- III. Are the documents indexed in indices Nos. I, & II.

BOOK-2

- I. Are the grounds for refusal sufficient ? See section 35 of the Indian Registration Act, 1908 and paragraphs 71 and 187.
- II. Are they in the handwriting of the registering officer ?

BOOK-3

- I. Read over a few documents, and see that only wills, and deeds of adoption which are also wills are registered in this book.

BOOK-4

- I. See that the points noted under Book 1, are, so far as applicable correct in Book 4 too.
- II. Read over two or three documents of each kind and see-
 - (1) that none of the documents registered in this book relates to immoveable property ;

- (2) that the nature of the documents is properly described ;
- (3) that powers of attorney are classified into special and general powers have not been stamped as special powers ;
- (4) that powers of attorney for conducting cases within the Punjab have been stamped with court fee stamps in accordance with article 10 ; Schedule 2 of the Court Fees Act, 1870.

Questions for Inspection-continued.

BOOK No-6

See that the substance of those powers of attorney only is entered in this book which authorize an agent to present a document for registration and nothing more.

INDICES

- 1. Are they up-to-date ?
- 2. Are entries correctly made ; compare some entries with the books ?
- 3. Are the indices of the past years bound up and are duplicates sent to the Registrar's Office at the close of the year ?

CHAPTER—II

OBLIGATIONS OF REGISTERING OFFICERS UNDER VARIOUS ENACTMENTS

1. Obligations under the Indian Stamp Act, 1899 :

A duty is cast upon the Registering Officers to examine every instrument chargeable with stamp duty and ensure that such instruments are adequately stamped in accordance with the provisions of the law. If, in their opinion, any such document is un-stamped or under-stamped and the deficiency is determinable from the document itself, it is obligatory upon them to impound such instrument under section 33 of the Indian Stamp Act, 1899 and forward it to the Collector of Stamps in accordance with the provisions of section 38(2) for action under section 40 of the Act *ibid*. The impoundment has to be made before and not after the registration of the document, as after the registration, the registering officers become *functus-officio*.

In cases where the deficiency of stamp duty, though determinable, escapes the scrutiny of the registering officers and the document is registered, the registering officers may refer such cases to the Collector of Stamps for initiating proceedings under section 62 of the Stamp Act.

In other cases, where the deficiency of stamp duty is not determinable in the absence of facts and circumstances affecting the chargeability of duty and the document has been executed in contravention of section 27 of the Act, the registering officers are empowered to refer such cases to the Collector of Stamps for prosecution under section 64 of the said Act.

2. Obligations under the Income-tax Act :

Section 230-A of the Income Tax Act, 1961 imposes restrictions on registration of instruments relating to transfer of immoveable property in certain cases. It inter-alia, provides that, where any document required to be registered under the provisions of clause (a) to (e) of sub-section (1) of Section 17 of the Indian Registration Act, 1908 (16 of 1908) purports to transfer, assign, limit or extinguish the right, title or interest of any person to or in any property valued at more than Rs. 50,000/-, no registering officer appointed under the said Act shall register any such document, unless the Income-tax Officer certifies that :—

- (a) such person has either paid or made satisfactory provision for payment of all existing liabilities under this Act, the Excess Profits Tax Act, 1940, the Business Profits Tax, 1947, the Indian Income-Tax Act, 1922, the Wealth Tax Act, 1957, the Expenditure-Tax Act, 1957, the

Gift Tax Act, 1958, the Super Profits Tax Act, 1963, and the Companies (Profits) Sur-Tax Act, 1964, or

- (b) the registration of the document will not prejudicially affect the recovery of any existing liability under any of the aforesaid Acts.

For the purposes of the aforesaid provision of the Income-tax Act, the value of the property and not the value of the interest transferred is relevant. Thus documents purporting to transfer, assign, limit or extinguish the right, title or interest of any person to or in any property would not be registered by the registering officers without a certificate under section 230-A if the value of the property exceeds Rs. 50,000/- even though the value of the interest transferred may be less than Rs. 50,000/-.

Section 269-P of the Income-tax Act further provides that no registering Officer shall register any document which purports to transfer any immoveable property for an apparent consideration exceeding Rs. 10,000/- unless the instrument is accompanied by the prescribed statement, in duplicate in form 37-G (for form, see Appendix 'A').

3. Obligations under the Estate Duty Act, 1955 :

Under section 74 of the Estate Duty Act, 1953, Estate Duty is the first charge on immoveable properties including agricultural land in whom-so-ever the same may vest on the death of a person and any private transfer or delivery of such properties is void against any claim in respect of the Estate Duty. The Registering Officers are, therefore, required to insist upon the production of an Estate Duty Clearance Certificate from the Controller of Estate Duty before registering any document relating to transfer of such properties by the legal heirs of a deceased person, where the value of the property or properties collectively exceeds Rs. 25,000/-.

4. Obligations in respect of Transfer Duty levied by the Municipal Authorities:

The Delhi Municipal Corporation Act, 1957 and the Punjab Municipal Act, 1911 provide for the levy of duty on transfer of immoveable property in the Union Territory of Delhi. This duty is levied @ 5% on the amount specified against instruments of the description given below :—

<i>Description of instruments</i>	<i>Amount on which duty should be levied</i>
(i) Sale of immovable property	The amount or value of the consideration for the sale, as set-forth in the instrument.
(ii) Exchange of immovable property	The value of the property of the greater value, as set-forth in the instrument.

- | | |
|--|--|
| (iii) Gift of immovable property | The value of the property, as set forth in the instrument. |
| (iv) Mortgage with possession of immovable property. | The amount secured by the mortgage, as set forth in the instrument. |
| (v) Lease in perpetuity of immovable property. | The amount equal to one-sixth of the whole amount or value of the rent which would be paid or delivered in respect of the first fifty years of the lease as set forth in the instrument. |

The duty is required to be paid along with the duty imposed by the Indian Stamp Act, 1899 on the instruments relating to transfer. According to the Bye-laws framed by the Delhi Municipal Corporation (The Delhi Municipal Corporation Duty on transfer of property Bye-laws 1960), and Notification issued under the Punjab Municipal Act, the registering officers are required to ensure that the required duty has been paid on such instruments and refuse to register any instrument in respect of which the transfer duty is not paid. A separate account in respect of the duty collected is also required to be maintained in the Registration office with the assistance of the staff of the local bodies and a statement of such collections is required to be prepared and sent to the Inspector General of Registration to enable him to authorise payment of such duty after deducting the collection charges, to the Municipal Corporation or the N.D.M.C., as the case may be, through the A.G.C.R.

It has, however, to be borne in mind that a document, found to be deficient in respect of transfer duty, cannot be impounded under section 33 of the Indian Stamp Act as this provision of the Stamp Act is not applicable to transfer duty levied under the two Acts.

4. Obligations under the Delhi Land (Restriction on Transfer) Act, 1972:

Section 4 of the Delhi Land (Restriction on Transfer) Act, 1972 provides that no person shall, except with the previous permission in writing of the Competent Authority, transfer or purport to transfer by sale, mortgage, gift, lease or otherwise any land or part thereof situated in the Union Territory of Delhi, which is proposed to be acquired/notified under section 6 of the Land Acquisition Act for a public purpose.

Section 8 of the aforesaid Act prohibits registration of any document required to be registered under the provisions of clauses (a) to (e) of sub-section (1) of Section 17 of the Indian Registration Act, 1908, which purports to transfer by sale, mortgage, gift, lease or otherwise any land or part thereof, referred to in section 4 of the act *Ibid*, unless the transfer produces before the registering Officer permission in writing of the Competent Authority for such transfer, as

from the date of enforcement of this Act, all instruments relating to transfer of land have to be registered on the basis of 'No Objection' certificate issued by the Competent Authority.

4. Obligations under the Urban Land (Ceiling and Regulation) Act, 1976:

In terms of sub-section (1) of section 26 of the Urban Land (Ceiling & Regulation) Act, 1976, any person holding vacant land within the ceiling limit has to give a notice in writing to the Competent Authority before transferring such land by way of sale, mortgage, gift, lease or otherwise.

Where a notice given under sub-section (1) is for the transfer of the land by way of sale, the Competent Authority has the first option to purchase such land and, if such option is not exercised within a period of 60 days from the date of receipt of the notice, such person can lawfully transfer the land to whomsoever he likes. However, in case the Competent Authority exercises the option to purchase the land within the prescribed period, the execution of the Sale Deed shall be completed and payment of the purchase price thereof shall be made within a period of 3 months from the date on which such option is exercised.

Similarly, under section 27, no person can transfer by way of sale, mortgage, gift, lease for a period exceeding 10 years, or otherwise any urbanisable land with a building whether constructed before or after the commencement of the Act or a portion only of such building for a period of 10 years of such commencement or from the date on which the building is constructed, whichever is later, except with the previous permission in writing of the Competent Authority. Where the Competent Authority does not refuse to grant the permission or does not communicate the refusal to the applicant within 60 days of the receipt of an application under section 27, it shall be presumed that the competent Authority has granted the permission applied for.

Section 28 provides that notwithstanding any thing contained in any other law for the time being in force, where any document required to be registered under the provisions of clauses (a) to (e) of sub-section (1) of section 17 of the Registration Act, 1908, purports to transfer by way of sale, mortgage, gift, lease or otherwise any land—

- (a) in the case of any transfer referred to in section 26, no registering officer appointed under that Act shall register any such document unless the transfer or produces before such registering officer evidence to show that he has given notice of the intended transfer to the competent authority under that section and, where transfer is by way of sale, the period of sixty days referred to in Sub-Section (2) of that section has elapsed ;

(b) in the case of any transfer referred to in section 27, no registering officer appointed under that Act shall register any such document unless the transfer produces before such registering officer the permission in writing of the competent authority for such transfer or satisfies the registering officer that the period of sixty days referred to in subsection (4) of that section has elapsed.

APPENDIX-A

FORM NO. 37-G

(See Rule 48-G)

**Statement to be furnished to the Registering Officer under Section 269-P (1)
of the Income Tax Act, 1961 along with the instrument of Transfer**

1. Name and address of the transferor
2. Name and address of the transferee
3. Detailed description, location and other particulars of the property transferred as given in the instrument of the transfer.
4. Whether land is free hold or lease hold
5. In case of building;
 - (a) Floor, wise plinth Area ;
 - (b) Year or years in which the building was constructed.
6. Name and address of the persons, if any, in occupation of the property.
7. Name and address of any other persons interested in the property.
8. Consideration for transfer as stated in the instrument of transfer.
9. Estimated fair market value of the property.
10. If the transfer is by way of the exchange description location of the thing or things for which the property is exchanged.
11. Fair market value of the thing or things mentioned against item "10".
12. If the consideration for transfer is less than the estimated fair market value.
 - (a) Wheather the transferee is relative of the transferor and if so, indicate relationship.

- (b) Whether recital to the effect that the transfer is made to the relative for a consideration less than the fair market value on account of natural love and affection is made in the instrument of transfer.
13. Was any agreement to sell the property registered under the registration Act, 1908 if so,
- (a) Date of conclusion of the agreement
 - (b) Date and registration number of the agreement.
 - (c) Consideration for transfer recorded in the agreement.

Signature of transferee.

VERIFICATION

.....do hereby declare that what is stated above, is true to the best of my knowledge and belief. Verified today the..... day of.....197 .

Signature of transferee.