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**Thirteenth Kerala Legislative Assembly**

**Bill No. 389**

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**THE KERALA STAMP (AMENDMENT)  
BILL, 2016**

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BILL

*further to amend the Kerala Stamp Act, 1959.*

*Preamble.*—WHEREAS, it is expedient further to amend the Kerala Stamp Act, 1959 (17 of 1959) for the purposes hereinafter appearing;

BE it enacted in the Sixty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Stamp (Amendment) Act, 2016.

(2) It shall be deemed to have come into force on the 19th day of September, 2015.

2. *Amendment of section 2.*—In section 2 of the Kerala Stamp Act, 1959 (17 of 1959) (hereinafter referred to as the principal Act),—

(a) in clause (e), for the words “an adhesive or impressed stamp”, the words and symbol “an adhesive, impressed or e-stamp” shall be substituted;

(b) after clause (e), the following clause shall be inserted, namely:—

“(ee) “e-stamp” means an electronically generated impression or chalan issued by the Department of Treasuries, Government of Kerala or any other agency appointed by the Government of Kerala for this purpose to denote the payment of stamp duty;”;

(c) after clause (i), the following clause shall be inserted, namely:—

“(ia) “Inspector General of Registration” means the Inspector General of Registration appointed under section 3 of the Registration Act, 1908 (Central Act XVI of 1908);”;

(d) after clause (p), the following clause shall be inserted, namely:—

“(pa) “Registering Officer” means the officer appointed under section 6 of the Registration Act, 1908 (Central Act XVI of 1908);”;

(e) in clause (qq),—

(i) for the words “mark, seal or endorsement”, the words “mark, seal, endorsement or impression” shall be substituted;

(ii) for the words “adhesive or impressed stamp”, the words and symbol “adhesive, impressed or e-stamp” shall be substituted.

3. *Amendment of section 10.*—In section 10 of the principal Act, in clause (b) of sub-section (2), after the words “impressed stamps”, the words and symbol “or e-stamps” shall be inserted.

4. *Insertion of new section 10B.*—After section 10A of the principal Act, the following section shall be inserted, namely:—

“10B. *Appointment of Central Record Keeping Agency.*—The Government may, by notification in the Official Gazette, appoint the Department of Treasuries or any other agency as Central Record Keeping Agency, which shall have such duties and functions, as may be prescribed, regarding issue of e-stamps.”.

5. *Insertion of new section 12A.*—After section 12 of the principal Act, the following section shall be inserted, namely:—

“12A. *Defacement of e-stamp.*—(1) Any e-stamp in an instrument shall be defaced through online computer verification system by the Registering Officer or any other officer authorised by the Government, in such manner, as may be prescribed, so that the same cannot be used again.

(2) Any instrument bearing an e-stamp which has not been defaced, shall so far as such stamp is concerned, be deemed to be unstamped.”.

6. *Amendment of section 13.*—In section 13 of the principal Act,—

(a) in the marginal heading, after the words “impressed stamps”, the words and symbol “or e-stamp” shall be inserted;

(b) in the existing provision, after the words “impressed stamp”, the words and symbol “or e-stamp” shall be inserted.

7. *Amendment of section 16.*—The existing provision in section 16 of the principal Act, shall be numbered as sub-section (1) thereof and after sub-section (1) as so, numbered the following sub-section shall be inserted, namely:—

“(2) The Registering Officer shall receive the deficit stamp duty, if any, and the details thereof shall be endorsed as a footnote in the e-stamp chalan by the Registering Officer.”.

8. *Amendment of section 47.*—In section 47 of the principal Act, after the words “impressed stamps”, the words and symbol “or e-stamps” shall be inserted.

9. *Amendment of section 54.*—In section 54 of the principal Act, in sub-section (2), for the words “for the decision of the Government or such other authority as may be specified by the Government”, the words “for the decision of the Government, Inspector General of Registration or such other authority as may be specified by the Government” shall be substituted.

10. *Substitution of new section for section 61.*—For section 61 of the principal Act, the following section shall be substituted, namely:—

“61. *Penalties for failure to cancel an adhesive stamp or to deface an e-stamp.*—Any Registering Officer required by section 12 to cancel an adhesive stamp or by section 12A to deface an e-stamp, who fails to cancel or deface such stamp in the manner prescribed by that section, shall be punishable with a fine which may extend to the amount which is equal to the value of the adhesive stamp or e-stamp.”

11. *Repeal and saving.*—(1) The Kerala Stamp (Amendment) Ordinance, 2016 (1 of 2016) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

#### STATEMENT OF OBJECTS AND REASONS

There are no provisions in the Kerala Stamp Act, 1959 for using stamp in electronic form (e-stamp). Therefore, considering the needs to render more efficient and cost effective services in the State for paying stamp duty on various instruments chargeable under the Kerala Stamp Act, 1959 (17 of 1959) and registered under Indian Registration Act, 1908 (Central Act XVI of 1908) and also considering the needs to prevent fake stamp papers in the State, Government have decided to implement the system of “e-stamping” along with the existing system of stamp papers. In order to implement the said system along with the existing system, certain amendments have to be effected in the respective sections of the Kerala Stamp Act, 1959. Therefore Government have decided to make suitable amendment to the Kerala Stamp Act, 1959.

2. As the Legislative Assembly of the State of Kerala was not in session and the above proposals had to be given effect to immediately, the Governor of Kerala had promulgated the Kerala Stamp (Amendment) Ordinance, 2015 on the 18th day of September, 2015 and the same was published as Ordinance No. 13 of 2015 in the Kerala Gazette Extraordinary No. 2122 dated 9th September, 2015.

3. A Bill to replace the said Ordinance, 2015 (13 of 2015) by an Act of the State Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on 30th day of November, 2015 and ended on 17th December, 2015.

4. As the Legislative Assembly of the State of Kerala was not in session and the provisions of the said Ordinance have to be kept alive, the Kerala Stamp (Amendment) Ordinance, 2016 was promulgated by the Governor of Kerala on the 9th day of January, 2016 and the same was published as Ordinance No. 1 of 2016 in the Kerala Gazette Extraordinary No. 53 dated 9th January, 2016.

5. The Bill seeks to replace Ordinance No. 1 of 2016 by an Act of the State Legislature.

#### FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 10B proposed to be inserted by clause 4 of the Bill seeks to empower the Government, to prescribe the duties and functions of Central Record Keeping Agency regarding issue of e-stamps.

Section 12A proposed to be inserted by clause 5 of the Bill seeks to empower the Government, to prescribe the manner in which any e-stamp in an instrument shall be defaced.

The matters in respect of which notifications may be issued or rules may be made are matters of procedures and are of routine and administrative in nature. Further, the rules are subject to scrutiny of the Legislative Assembly. The delegation of the Legislative Power is, therefore, of a normal character.

OOMMEN CHANDY

EXTRACT OF THE RELEVANT PORTIONS FROM  
THE KERALA STAMP ACT, 1959

(17 OF 1959)

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

(a) “bond” includes—

- (i) any instrument whereby a person obliges himself to pay money to another, on conditions that the obligation shall be void if a specified Act is performed, or is not performed as the case may be;

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(e) “duly stamped” as applied to an instrument means that the instrument bears an adhesive or impressed stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with the law for the time being in force in the territories of the State of Kerala.

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(i) “India” means the territory of India excluding the State of Jammu and Kashmir;

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(p) “power-of-attorney” includes any instrument (not chargeable with a fee under the law relating to Court fees for the time being in force) empowering a specified person to act for and in the name of the person executing it;

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(qq) “Stamp” means any mark, seal or endorsement by any agency or person duly authorised by the State Government and includes an adhesive or impressed stamp for the purposes of duty chargeable under this Act.

B. OF STAMPS AND THE MODE OF USING THEM

10. *Duties how to be paid.*—(1) Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid and such payment shall be indicated on such instruments, by means of stamps—

- (a) according to the provisions herein contained; or  
(b) when no such provision is applicable thereto, as the Government may by rules direct.

(2) The rules made under sub-section (1) may, among other matters, regulate,—

- (a) in the case of each kind of instrument—the description of stamps which may be used;
- (b) in the case of instruments stamped with impressed stamps the number of stamps which may be used.

10A. *Deduction of stamp duty by a member of a stock exchange or commodity exchange or intermediary thereof.*—(1) A member of a stock exchange or commodity exchange or intermediary thereof who issues a contract note or memorandum in respect of purchase or sale of goods or stock or security in this State at first instance of any such transaction which is ultimately concluded in the State shall deduct the stamp duty payable thereon.

(2) The stamp duty deducted for any calendar month under sub-section (1) shall be remitted into the Government treasury on or before the seventh day of succeeding month and if the stamp duty so deducted is not remitted in time, it shall be remitted with interest at the rate of twelve per cent per annum from the date of default.

(3) Any default in the deduction of stamp duty under sub-section (1) or failure to remit the stamp duty under sub-section (2) shall be punishable with fine which may extend to fifty thousand rupees.

12. *Cancellation of adhesive stamps.*—(1) (a) Who even affixes any adhesive stamp to an instrument chargeable with duty which has been executed by any person shall when affixing such stamp, cancel the same so that it cannot be used again; and

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

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

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

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

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

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

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

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

(a) \*\*\*\*

(b) \*\*\*\*

(c) \*\*\*\*

(1) \*\*\*\*

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(8) \*\*\*\*

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

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54. *Control of and statement of case to, the Government or other authority specified by the Government.*—(1) The powers exercisable by a Collector under Chapter IV and Chapter V and under clause (a) of the first proviso to section 27 shall in all cases be subject to the control of the Government or such other authority as may be specified by Government in this behalf.

(2) If any Collector acting under section 31, section 39 or section 40, feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case and refer it with his own opinion thereon, for decision of the Government or such other authority as may be specified by Government in this behalf.

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

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