CHAPTER 1.

RULES UNDER SPECIAL ACTS

PART A.—RULES UNDER THE COMPANIES ACT.

Rules made by *the High* Court under *the* powers conferred by section 246 of the *Indian Companies Act,* 1913.*

GENERAL

1. The following shall be used as general heading in all cases under the Indian Companies Act in the Punjab High Court and the Courts subordinate thereto and for all advertisements, notices, etc.

IN THE PUNJAB HIGH COURT AT__________________

____

Or, in the Court of the District Judge at____________

____

In the matter of the Indian Companies Act, VII of 1913, and of the_______________Limited, .
Petition under section(s)_________________of the Act, for ____________________

____Petitioner (s)

versus

____Respondent (s).

Petitions and forms.

2. All applications under the Indian Companies Act shall be made by petition duly verified by affidavit and forms in the appendix, where applicable, or forms of the like character, with such variations as circumstances may require, shall be used.

WINDING UP

Form of petitions for winding up a company.

3. Every petition for the winding up of a company by the Court or subject to the supervision of the Court shall be in form No. 1, 2 or 3 in the appendix, as the case may be.

Verification of petition.

4. Every petition for the winding up of any company by the Court or subject to the supervision of the Court

*Note.—The Indian Companies Act, 1913, was repealed by the Companies Act, 1956 (No. 1 of 1956). In view of section 645 of Act I of 1956, the rules framed under the previous company law continue in force in so far as these could have been made under or in pursuance of Act I of 1956 and shall have effect as if made under or in pursuance of Act I of 1956.

shall be verified in the prescribed form. Such verification shall be made by the petitioner or by one of the petitioners (if more than one), or If by reason of absence or other good cause any person by whom or on whose behalf such petition is presented is unable himself to verify the same, the Court may permit some other competent person to verify the petition. In case the petition is presented by any company, the allegations therein shall be verified by some Director, Secretary or other principal officer of the company. Such verification shall be made and filed within four days after the petition is presented and such verified statement shall be sufficient *prima facie* evidence of the statement in the petition. (Form No. 4).

Directions on admission.

5. Upon the admission of the petition, the Judge shall fix a date for the hearing thereof and give directions as to the advertisement to be published and as to the person on whom copies are to be served.

Advertisement.

6. (i) In the absence of any direction to the contrary, the petition for the winding up of any company by the Court, or subject to the supervision of the Court, shall, after admission, be advertised fourteen clear days before the hearing, once in the local official gazette and once at least in two newspapers.

(ii) The advertisement shall state the date on which the petition was presented, the name and address of the petitioner and of his pleader or agent, if any. (Form 5.)

Service of notice.

7. Every such petition shall, unless presented by the company, be served at the registered office (if any) of the company, and where there is no registered office, then at the principal or last known principal place of business of the company, if any such place can be found, by leaving a copy with any Director, Officer or servant of the Company, there, or in case no such Director, Officer or servant can be found there, then by being left at or affixed to the door or wall of such registered office or principal place of business, or being served in such other manner as the Judge may direct. Every petition for the winding up of a company subject to the supervision of the Court shall also be served upon the Liquidator (if any) appointed for the purpose of winding up the affairs of the company. So also every petition for compulsory winding up of a company shall be served upon the Liquidator (if any), who may have been appointed to act in a voluntary winding up or winding up under supervision, as the case may be.

[1]**[**Provided that the Service of Process to the respondent/addressee can also be effected through electronic means where the party has furnished the requisite details.**]**

1. Inserted vide Correction Slip No. 7 Rules/II.D.4 dated 27.11.2018.

Notice by person who intends to appear.

8. Every person who intends to appear on the hearing of a petition for winding up shall serve on, or send by post to, the Deputy Registrar (Judicial) of the Court, notice of his intention. The notice shall contain the address of such petitioner and shall be signed by him or by his agent or counsel and shall be served 7 days before the day appointed for hearing of the petition. A person who has failed to comply with this rule shall not, without the special leave of the Court, be allowed to appear on the hearing of the petition. (Form No. 8.)

Copy of petition to be furnished.

9. Every contributor or creditor of the company shall, on application to the Court in which the petition is presented, be entitled to be furnished with a copy of the petition on payment of the usual and customary fees for copies of documents in such Court, and such copies shall be furnished within three days after the same shall have been applied for.

Affidavits.

10. (a) An affidavit intended to be used in support or opposition of the petition that the company be wound up by or subject to the supervision of the Court, shall be filed after notice to the opposite party 7 clear days before the date of hearing of the petition.

(b) An affidavit in reply to an affidavit filed in support or opposition of the petition, shall be filed two clear days before the date of hearing of the petition and after notice to the opposite party.

(c) Any other affidavit may be filed at any stage of the proceedings with the permission of the Court and notice of any such affidavit-shall be given, on- the date on which it has been filed, to the party against whom it is intended to be used.

Petition not to be dismissed if the petitioner does not desire to prosecute it.

11. (i) Where a petitioner consents to withdraw his petition or to allow it to be dismissed or fails to appear in support of his petition when it is called on in the Court on the day originally fixed for the hearing thereof or on any day to which the hearing has been adjourned or, if appearing, does not apply for an order in the term of the prayer of his petition, the Court may, upon such terms as it may

think just, substitute as petitioner any other person who, in the opinion of the Court, has a right to present petition for winding up and who is desirous of prosecuting the petition.

(ii) Where the Judge allows a person to be substituted as petitioner in an application for the winding up of the company, he shall adjourn the hearing of the petition to a date to be fixed by him. Such person shall within seven days from the making of the order file a fresh petition with such amendment as he desires to incorporate therein and shall also file an affidavit setting out the ground upon which he supports the petition. The amended petition shall be treated as the petition for the winding up of the company, and shall not require any stamp.

Death of petitioner.

12. If the petitioner dies before the hearing of the petition, his legal representatives may obtain an order to carry on the petition or the Court may, upon such terms as it may think just, substitute as petitioner any other person who in the opinion of the Court has a right to present a petition for winding up and who is desirous of prosecuting the petition. In the latter case, the provisions of Rule 11(ii) shall apply.

Winding up order to be filed with Registrar.

13. On the making up of a winding up Order, it shall be the duty of the petitioner in the winding up proceedings and of the Official Liquidator of the company to file with the Registrar of Joint Stock Companies a copy of the order within a month from the date of the winding-up order. (Form Nos. 9 and 10).

Order of winding up to be advertised.

14. Every order for winding up of a company by the Court or subject to the supervision of the Court shall, with in two weeks after the date thereof, be advertised once in the same papers and Gazette in which the notice of the winding up petition appeared unless the Court otherwise directs and shall be served upon such person or persons (if any) and in such manner as the Court may direct. (Form No. 11).

Appointment of Provisional Liquidator.

15. (a) After the presentation of a petition, upon the application of the company or any person entitled to present the petition and upon proof by affidavit of sufficient ground for the appointment of a Provisional Liquidator, the Court, if it thinks fit, and upon such terms as

in the opinion of the Court shall be just and necessary, may make the appointment, but shall before making any appointment give notice to the company unless it thinks fit to dispense with the notice. (Form No. 12).

(b)) The Court may appoint the Official Receiver attached to the Court or any other person or persons to be the Provincial Liquidator.

(c)) Unless otherwise ordered, a person appointed to be Provisional Liquidator, if he is not the Official Receiver, may be required to give security.

(d)) The order of appointment of Provisional Liquidator shall state the nature of the property of which the said Provisional Liquidator is ordered to take possession and the duties to be performed by him or them. (Form No. 13).

(e)) When an order for the appointment of a Provisional Liquidator prior to the making of an order for winding up has been made, the Deputy Registrar (Judicial) of the Court shall forthwith send by post or otherwise to the person or persons so appointed two copies of the order duly sealed with the seal of the Court.

The Provisional Liquidator shall cause one of such copies to be served upon the company.

(f)) The Provisional Liquidator so appointed shall from time to time take instructions from the Court as to the manner in which the duties are to be performed by him.

(g)) The Provisional Liquidator so appointed, unless otherwise ordered, shall as far as possible submit a report to the Court, as to the affairs of the company before the hearing of the petition for winding up.

(h)) The costs and charges properly incurred by the Provisional Liquidator and also his remuneration as fixed by the Court shall be paid out of the assets of the company and in the event of there being not available assets of the company, the Court may direct such charges, etc., to be paid by the petitioner.

(i) The Provisional Liquidator, until an Official Liquidator is appointed by the Court, shall keep a book to be called the "Cash Book", in which he shall enter from day to day all receipts and payments.

(j) The costs and charges ordered to be paid by the petitioner under clause *(h)* above, shall be a first charge on the assets of the company when a winding up order is made.

(k) If no order for winding up is made upon the petition, the costs and charges incurred by the Provisional Liquidator shall be paid by the petitioner, unless otherwise ordered by the Court.

Rules applicable to Provisional Liquidators.

16. (a) All the rules relating to Official Liquidators shall, so far as the same are applicable and subject to the directions of the Judge, apply to Provisional Liquidators.

(b) All the rules relating to Official Liquidators shall, so far as the same are applicable and subject to the directions of the Judge, apply to the Liquidator of a company under supervision of the Court in addition to the following directions:

(1) The liquidator shall furnish a report of progress every six months.

(2) Accounts shall be prepared and audited at least once per annum.

(3) All accounts shall be filed within one month of the completion of the audit.

(4) The appointment of the auditors must have the approval of the Court.

(5) All compromises must be recommended by the Liquidator and be approved by the Court.

Official Receiver's duty on appointment of another person *as* Official Liquidator.

17. Where the Official Receiver has acted as Liquidator and thereafter a Liquidator is appointed by the Court who has notified his appointment to the Registrar of Companies and given security to the Court, the Official Receiver shall forthwith put the Liquidator into possession of all property of the Company of which the Official Receiver may have custody.

It shall be the duty of the Official Receiver, if so requested by the Official Liquidator, to communicate to the Liquidator all such information respecting the estate and affairs of the company as may be necessary or conducive to the due discharge of the duties of the Official Liquidator.

18. The Court may appoint a person other than the Official Receiver to the office of Official Liquidator without any previous advertisement or notice to any party or may fix a time and place for the appointment of an Official Liquidator.

Appointment of official Liquidator.

19. When a time and place are fixed for the appointment of an Official Liquidator, such time and place shall be advertised in such manner as the judge shall direct, so that the first or the only advertisement shall be published within fourteen days and not less than seven days before the day so fixed. (Form No. 17).

Advertisement for the appointment of official Liquidator.

20. The Official Liquidator shall be appointed by order, and unless he shall have given security or unless security shall have been dispensed with, a time shall be fixed by such order within which he is to do so. (Form No. 18).

Order appointing official Liquidator.

21. If the company is not the petitioner or does not Order to be appear at the hearing the order shall be served upon the Company.

Order to be served on the company.

22. In the absence of any directions as to advertisement, the order shall, within fourteen days after the order shall have been sealed, be advertised by the petitioner or the substituted petitioner, as the case may be, once in the local Official Gazette and shall be served upon such person and in such manner as-the Judge may direct. The form of advertisement shall be in Form No. 22.

Order to be advertised.

23. The Official Liquidator shall present to the Court accounts of his "Receipts and Payments" drawn up to 31st December and 30th June by 31st, January and 31st July, respectively, each year.

All money received by the Official liquidator shall be paid in a scheduled Bank, as defined in clause (e) of section

2 of the Reserve Bank of India Act, 1934, immediately after the receipt thereof to the account of the Official Liquidator of the company and an account shall be opened there accordingly. A copy of the order duly sealed with the seal of the Court shall be lodged with such scheduled Bank.

Security of Official Liquidator.

24. Every Official Liquidator shall give security by entering into a recognizance with one or more sufficient sureties or by depositing Government Securities in such sum as the Court may approve, provided that the Court may, if it thinks fit, dispense with such security. (Forms Nos. 19 and 20).

Security to be certified.

25. When an Official Liquidator has given security pursuant to the direction in the order appointing him, the same shall be certified by the Judge or the Registrar of the Court. (Form No. 21).

Copy of order to be filed with Registrar of Companies.

26. A certified copy of the order appointing an Official Liquidator shall be filed by him with the Registrar of Joint Stock Companies within ten days of the same being made.

Advertisement of appointment made.

27. Every appointment of an Official Liquidator shall be advertised in such manner as the Judge shall direct immediately after he has been appointed and has given the required security. (Form No. 22).

Failure to furnish security.

28. If the Official Liquidator fails to furnish the required security within the time ordered or within any extension thereof, the Judge may rescind the order of appointment and make such other appointment and such order as to costs as he considers fit and proper.

Failure to maintain security.

29. If the Official Liquidator fails to maintain the security ordered to be furnished, the Judge may remove him and make such other appointment and such order as to costs as he may think fit.

Security increased.

30. If it shall appear at any time that the security furnished by the Official Liquidator is inadequate or excessive, the Judge may, upon the application of the Official Liquidator or of a creditor or contributory, order that the security be increased or reduced in amount.

31. Within fourteen days or such less time as the Judge may direct after the winding up order shall have been sealed, a summons for directions shall be taken out by the Official Liquidator, if appointed, otherwise by the petitioner. Upon the hearing of such summons, directions shall be given by the Judge in respect of such matters as he shall deem necessary or expedient including any of the following matters: Summons for direction to be taken out by the Official Liquidator.

(a) the appointment of an Official Liquidator (if not already appointed or if appointed temporarily),

(b) delegation under section 246 of the Act of the powers of the Court,

(c) proof of debts,

(d) settlement of the list of contributories,

(e) powers of the Official Liquidator in respect of matters specified in section 179 of the Act.

The further proceedings under the orders shall be continued by adjournment of such summons and save as otherwise provided by these rules, all applications by an Official Liquidator, creditor or contributory, shall be made by restoration of such summons supported by affidavit; provided that the Judge may direct the service or re-service of such summons or of a further summons on any person.

32. All applications by an Official Liquidator shall be made on notice to such persons as may be affected by the order sought for and to such persons as the Court may direct. Applications by Official Liquidator.

33. In case of the death, removal or resignation of an Official Liquidator another shall be appointed in his place the same manner as directed in the case of a first appointment, and proceedings for that purpose may be taken by such party interested as may be authorised by the Judge to take the same. Vacancy in office of Liquidator.

34. The Official Liquidator shall on each occasion of passing his accounts, and also whensoever the Judge may Fresh security when required.

so require, satisfy the Judge by a duly sworn affidavit (or by oral evidence if so required), that his sureties are living and resident in India and have not become insolvent or been adjudged bankrupt, and in default thereof he may be required to enter into fresh Security or to deposit Government securities within such time and to such amount as may be directed.

Remuneration of Official Liquidator – how allowed or paid.

35. The Official Liquidator shall be allowed in his account or otherwise paid such amount by way of salary or remuneration as the Judge may direct and such remuneration may be fixed either at the time of his appointment or thereafter and may be altered. Such remuneration may be fixed or altered to cover or exclude the employment of assistants or clerks, office rent and incidental expenses. No money shall be appropriated to such remuneration, save upon the passing of an account or upon an application by the Official Liquidator for that purpose on notice to such person (if any) and supported by such evidence as the Judge may direct, provided, nevertheless, that the Judge may, from time to time, allow an Official Liquidator to appropriate such sum as he may think fit on account of remuneration to be thereafter fixed.

Time for payment of remuneration.

36. The remuneration of an Official Liquidator, as far as possible, shall be fixed in the nature of a commission or percentage of which one part shall be payable on the amount realized after deducting the sum (if any) paid to secured creditors (other than debenture-holders), out of the proceeds of their securities and the other part on the amount distributed in dividends.

Official Liquidator's charges.

37. Where an Official Liquidator receives remuneration for his services as such, no payment shall be allowed in his accounts in respect of the performance by any other person of the ordinary duties which are required by the Act or these rules to be performed by him.

Preparation of list of company's Property.

38. Unless the Court shall otherwise direct, the Liquidator, as soon as he takes over charge, shall make a list of all the property (moveable as well as immovable) belonging to the company, in duplicate, which shall be signed by two or more past officers of the company as well as the Liquidator who shall file one copy of the list with the Court.

39. (1) The Official Liquidator shall with all convenient speed, after he is appointed, proceed to make up, continue, complete and rectify the books of account of the company, and shall provide and keep such books of account as shall be necessary or, as the Judge may direct, for the purposes aforesaid and for showing the debts and credits of the company including a ledger which shall contain the separate account of the contributories and in which every contributory shall be debited from time to time with the amounts payable by him in respect of any call to be made as provided by the Act and these rules.

Duties of Official Liquidator.

(2) The Official Liquidator shall keep a book to be called the Record Book in which he shall record all minutes, all proceedings and resolutions passed at any meeting of creditors or contributories or of the Advisory Committee, if any, and, subject to the orders of the Court, all such matters as may be necessary to give a correct view of his administration of the Company's affairs, but he shall not be bound to insert in the Record Book any document of a confidential nature (such as the opinion of Council on any matter affecting the interest of the creditors or contributories) nor need he exhibit such documents to any person other than a member of the Advisory Committee, if any.

(3) The Official Liquidator shall keep a book (or continue one left by the Official Liquidator, if any) to be called the Cash Book in which he shall enter from day to day the receipts and payments made by him.

(4) Where the Official Liquidator is authorised to carry on the business of the company, he shall keep separate books of account in respect of such business.

40. (1) Unless the Judge otherwise directs, at the end of three months after the order for winding up of a company, the Official Liquidator shall file in Court a report of the progress of the winding up and thereafter similar reports shall be filed every three months until the winding up proceedings are concluded.

Reports of the Official Liquidator.

(2) In particular and without prejudice to the generality of the foregoing sub-rule such reports shall mention the following matters :—

(a) Settlement of lists of contributories,

(b) Calls,

(c) Proofs and debts,

(d) Meetings of creditors and resolutions passed therein,

(e) Properties that have come into the hands of the Official Liquidator,

(f) Out standings that have been recovered and that remain to be recovered ,

(g) Dividends declared, and

(h) Receipts and payments under appropriate heads.

Official Liquidator to file the report.

41. The Official Liquidator shall submit a report stating the facts and matters which he may desire to bring to the notice of the Court, and he may apply to the Court to fix a day for the consideration of the same and on such application the Court shall appoint a day on which the report shall be considered.

Consideration of the report.

42. The consideration of the report shall be before the Judge of the Court and the Official Liquidator shall personally or by counsel attend the consideration of the report and give to the Court any further information or explanation with reference to the matters stated in the report which the Court may require.

Disposal of Books.

43. The Judge may, at any time during the progress of the liquidation, on the application of the Official Liquidator, give directions as to the disposal of such of the books, papers and documents of the company or of the Official Liquidator as are no longer required for the purpose of the liquidation.

Unauthorised benefit.

44. An Official Liquidator shall not, without the sanction of the Judge, give up or agree to give up any part of his remuneration to any person.

Restriction on purchase of goods by Liquidator.

45. Where the Official Liquidator carries on the business of the company, he shall not, without the express sanction of the Court, purchase goods for the carrying on of such business from any person whose connection with

the Liquidator is of such a nature as would result in the Liquidator obtaining any portion of the profit (if any) arising out of the transaction.

46. Neither the Official Liquidator, nor any member of the Committee of Inspection, if any, shall, while acting as Liquidator or member of such Committee, except by leave of the Court, either directly or indirectly by himself or any partner, clerk or servant, become purchaser of any part of the company's assets. Dealing with the assets.

47. The duties imposed on the Court by section 184(1) of the Act in a winding up by the Court with regard to the collection of the assets in discharge of the company's liabilities shall be discharged by the Official Liquidator as an Officer of the Court subject to the control of the Judge. Liquidator as an Officer of the Court.

48. For the purpose of the discharge by the Official Liquidator of such duties the Official Liquidator shall, for the purpose of acquiring or retaining possession of the property of the company, be in the same position as if he were a Receiver of property appointed by the Court, and the Judge may, on his application, enforce such acquisition or retention accordingly. Enforcement of the powers of Liquidators in relation to assets.

49. When the Official Liquidator takes charge of the company and finds that there are no funds available to carry on the winding up proceedings, he shall move the Court for directions in the matter. The Court shall direct the issue of notice to the person or persons who applied for the winding up order, and the secured creditors, if any, so as to find out their wishes in the matter and require them to show cause why they should not be made to pay a reasonable amount to carry on the winding up proceedings, and after hearing them and the Official Liquidator, the Court may direct any of them to pay a reasonable amount to Official Liquidator to meet the necessary expenses. Funds not available for winding up proceedings.

The amount so advanced shall be a first charge on the assets of the company.

50. Where Joint Official Liquidators are appointed the rules relating to the Official Liquidator shall be applicable *mutatis mutandis.* Rules re: Joint Official Liquidators.

Cases under Section 179

51. The direction or sanction of the Judge for any proceedings or act to be taken or done by the Official Liquidator under the powers conferred on him by section 179 shall (subject to the provisions of section 180 of the Act), be obtained upon application in writing and an order shall be drawn up thereon, unless the Judge shall otherwise direct.

STATEMENT OF AFFAIRS

Extension of time for submitting Statement of affairs.

52. (a) When any person requires an extension of time for submitting the statement of affairs under section 177-A of the Act, he shall apply to the Official Liquidator who may, if he thinks fit, give a written certificate extending the time, which certificate shall be filed with the proceedings in the winding up and shall render an application to the Court unnecessary. (Form No. 16).

(b) Where the Official Liquidator refuses to grant an extension of time for submitting the statement of affairs, the person required to submit the statement may, on notice to the Official Liquidator, apply to the Judge.

Failure to comply with section 177-A.

53. If any person or persons fail to comply with the provisions of section 177-A of the Act, the Liquidator shall report the matter to the Court which may take action against the defaulting person or persons, either under sub-clause 5 of section 177-A of the Act or may make an order upon the said person or persons compelling him or them to comply with the said provisions of the Act.

(Form No. 15)

Preparation of the statement affairs.

54. (1) The statement of affairs under section I77-A of the Act shall be made out in duplicate and shall be submitted to the Official Liquidator within the time prescribed or within such extended time as the Official Liquidator or the Judge may, for special reasons, appoint. One copy of the statement shall be verified by an affidavit. The Official Liquidator shall cause the verified statement to be filed in Court and shall retain the duplicate thereof for his record.

(2) The Official Liquidator may from time to time hold personal interview with person who may be able to give some information about the company's affairs for the

purpose of investigating the company's affairs and it shall be the duty of every such person to attend the Liquidator's office at such time and place as the Liquidator may appoint and give all information that he may require.

COMMITTEE OF INSPECTION

55. Where there is a difference between the resolutions of the meetings of the creditors and contributories held under section 178-A (1) and (2), the Judge shall, on the application of the Official Liquidator, fix a time and place for consideration of the resolution and make such order as may be necessary.

Difference between the resolutions of the meetings of the creditors and contributories.

When the time and place has been fixed for the consideration of the resolutions and determinations of the meetings, such time and place shall be advertised by the Liquidator in such manner as the Judge may direct.

(Form No. 23.)

On the date fixed, the Judge shall hear the Liquidator and any creditor or contributory who may appear on the application.

56. No member of the Committee of Inspection shall except under and with the sanction of the Court, directly or indirectly by himself or any employer, partner, clerk, agent or servant, be entitled to derive any profit from any transaction arising out of the winding up or to receive out of the assets any payment for services rendered by him in connection with the administration of the assets, or for any goods supplied by him to the Liquidator for or on account of the company. If it appears that any profit by or payment to any member or members of the Committee of Inspection has been made contrary to the provisions of this rule, the Court may recover such profit, or disallow such payment as the case may be.

Committee of inspection not to make profit.

57. In any case in which sanction of the Court is obtained under the preceding rule, the costs of obtaining such sanction shall be borne by the person in whose interest such sanction is obtained and shall not be payable out of the company's assets.

Costs of obtaining sanction of Court.

58. Where the sanction of the Court to a payment to a member of a Committee of Inspection for services rendered by him in connection with the administration of the

Sanction of payment to Committee.

company's assets is obtained, the order of the Court shall specify the nature of the services, and such sanction shall only be given where the service performed is of a special nature. Except by the express sanction of the Court, no remuneration shall, under any circumstances, be paid to a member of a Committee for services rendered by him in the discharge of the duties attaching to his office as a member of such Committee.

MEETINGS

Summoning of meetings of creditors and contributories.

59. The meetings of creditors and contributories shall be summoned as hereinafter provided.

The notices of meetings of creditors and contributories shall be in forms appended thereto, and the notices to creditors shall state a time within which the creditors must lodge their proofs in order to entitle them to vote at the meeting. (Forms Nos. 23 to 27).

Liquidator's meeting of creditors and contributories

60. In addition to the meeting of the creditors and contributories held under section 174 or section 178-A of the Act (hereinafter referred to as Court meetings of creditors and contributories), the Liquidator in any winding up by the Court may himself, from time to time, subject to the provisions of the Act and the control of the Court, summon, hold and conduct meetings of the creditors or contributories (hereinafter referred to as Liquidator's meetings of creditors and contributories) for the purpose of ascertaining their wishes in all matters relating to the winding up.

Summoning of meetings.

61. The Official Liquidator shall summon all meetings of creditors and contributories by giving not less than 7 days' notice of the time and place thereof in a newspaper directed by the Court, and shall not less than 7 days before the day appointed for the meeting send by post to every person appearing by the company's books to be a creditor of the company notice of the meeting of creditors and to every person appearing by the company's books or otherwise to be a contributory of the company notice of the meeting of the contributories.

The notice to each creditor shall be sent to the address given in his proof or, if he has not proved, to the address given in the statement of affairs of the company, if any, or to such other address as may be known to the person summoning the meeting. The notice to each contributory shall be sent to the address mentioned in the company's books as the address of such contributory or to such other address as may be known to the person summoning the meeting.

62. A certificate or affidavit by the Liquidator or his clerk, that the notice of any meeting has been duly posted, shall be sufficient evidence of such notice having been duly sent to the person to whom the same was addressed (Forms Nos. 28 and 29). Proof of notice.

63. Every meeting shall be held at such place as is in the opinion of the Official Liquidator most convenient for the majority of the creditors or contributories or both. Different times or places may, if thought expedient, be named for the meeting of creditors and for the meeting of the contributories. Place of meeting.

64. The costs of summoning a meeting of creditors or contributories at the instance of any person other than the Official Liquidator shall be paid by the persons at whose instance it is summoned and who shall, before the meeting is summoned, deposit with the Official Liquidator such sum as may be required by the Official Liquidator as security for the payment of such costs. The said costs shall be repaid out of the assets of the company, if the Court shall, by order, so direct. Costs of calling meeting.

65. Where a meeting is summoned by the Official Liquidator, he or some one nominated by him shall be Chairman of the meeting. At every other meeting of the creditors or contributories, the Chairman shall be such person as the meeting, by resolution, shall appoint. Chairman of meeting.

66. At a meeting of creditors a resolution shall be ordinary deemed to be passed when a majority in value of the creditors present personally or by proxy and voting of the resolution have noted in favour of the resolution, and at a meeting of the contributories a resolution shall be deemed to be passed when a majority in value of the contributories Present personally or by proxy and voting on the resolution have voted in favour of the resolution, the value of Ordinary resolution of creditors and contributories.

the contributories being determined according to the number of votes conferred on each contributory by the regulations of the company.

Copy of resolution to be filed.

67. The Official Liquidator shall file with the Registrar of Joint Stock Companies and also 'in Court a copy certified by him of every resolution of a meeting of creditors or contributories in a winding up by the Court.

Non-receipt of notice by a creditor.

68. Where a meeting of creditors or contributories is summoned by notice, the proceedings and resolutions at the meeting shall, unless the Court otherwise orders, be valid notwithstanding that some creditors or contributories may not have received the notice sent to them.

Adjournments.

69. The Chairman may, with the consent of the meeting, adjourn it from time to time and from place to place, but the adjourned meeting shall be held at the same place as the original meeting unless in the resolution for adjournment another place is specified or unless the Court otherwise orders.

Quorum.

70. A meeting may not act for any purpose except the election of a Chairman, the proving of debts and the adjournment of the meeting unless there are present or represented there at least three creditors entitled to vote or three contributories or all the creditors entitled to vote or all the contributories, if the number of creditors entitled to vote or the contributories, as the case may be, shall not exceed three.

If within half-an-hour from the time appointed for the meeting a quorum of creditors or contributories is not present or represented, the meeting shall be adjourned to the same day in the following week at the same time and place or to such other day or time or place as the Chairman may appoint, but so that the clay appointed shall not be less than 7 or more than 21 days from the day from which the meeting was adjourned.

Creditors entitled to vote.

71. In the case of meeting of creditors held under section 178-A or of an adjournment thereof, a person shall n of be entitled to vote as a creditor unless he has duly lodged with the Official Liquidator not later than the time mentioned for that purpose in the notice convening the

meeting a proof of the debt which he claims to be due to him from the company. In the case of a Court meeting or Liquidator's meeting of creditors a person shall not be entitled to vote as a creditor unless he has lodged with the Official Liquidator a proof of the debt which he claims to be due to him from the company and such proof has been admitted wholly or in part before the date on which the meeting is held. Provided that this and the next four rules shall not apply to a Court meeting of creditors held prior to the meeting of creditors under section 178-A. This rule shall not apply to any creditor or class of creditors who by virtue of the rule or any directions given thereunder are not required to prove their debts.

Creditors may not vote.

72. A creditor shall not vote in respect of any un-liquidated or contingent debt or any debt the value of which is not ascertained, nor shall a creditor vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him. unless he is willing to treat the liability to him thereon of every person who is liable thereon antecedently to the company, and against whom a receiving order in bankruptcy has not been made, as a security in his hand, and to estimate the value thereof, and for the purposes of voting, but not for the purposes of dividend, to deduct it'from his proof.

Vote of secured creditors.

73. For the purpose of voting a secured creditor shall, unless he surrenders his security, state in his proof the date when it was given and the value at which he assesses it, and shall be entitled to vote only in respect of the balance, if any, due to him after deducting the value of his security. If he votes in respect of his whole debt, he shall be deemed to have surrendered his security, unless the Court, on application, is satisfied that the omission to value the security has arisen from inadvertence.

Creditor required to give up security.

74. The Official Liquidator may, within 21 days after a proof, require the creditor to give up the security for the benefit of the creditors generally on payment of the value so estimated with an addition thereto of 20 per cent, provided that where a creditor has valued the security he may, at any time before being required to give it up, correct the valuation by a new proof and deduct the new value from his debt, but in that case the said addition of 20 per cent shall not be made if the security is required to be given up.

Admission and rejection of proofs for purpose of voting.

75. The Chairman shall have power to admit or reject a proof for the purpose of voting, but his decision shall be subject to appeal to the Court. If he is in doubt whether aproof shall be admitted or rejected, he shall mark it as 'objected to' and allow the creditor to vote subject to the vote being declared invalid in the event of the objection being sustained.

Minutes of meeting.

76. The Chairman shall cause minutes of the proceedings at the meeting to be drawn up and fairly entered in a book kept for that purpose and the minutes shall be signed by him or by the Chairman of the next ensuing meeting.

(Form No. 34).

A list of creditors and contributories present at every meeting shall be made and kept.

Attendance by proxy.

77. A creditor or a contributory may vote either in person or by proxy. Where a person is authorised in manner provided by section 80 of the Act to represent a corporation at any meeting of creditors such person shall produce to the Official Liquidator or the Chairman of the meeting a copy of the resolution so authorising him. Such copy must either be certified to be true copy by the Secretary or a Director of the Corporation. The succeeding rules as to proxy shall not (unless otherwise directed by the Court), apply to a Court meeting of creditors or contributories.

Form of proxies.

78. Every instrument of proxy shall be in accordance with the form in the appendix and every written part thereof shall be in the handwriting of the person giving the proxy or of any manager or clerk or any other person in his regular employment or of a Commissioner to administer oaths residing in the locality where such person is living or carrying on business. (Form No. 35, 36, or 37).

Form of proxy to be sent with notice.

79. General and special forms of proxy shall be sent to the creditors and contributories with the notice summoning the meeting, and neither the name nor description of the Official Liquidator or any other person shall be printed or inserted in the body of any instrument of proxy before it is sent.

General proxies.

80. A creditor or contributory may give a general proxy to any person (Form No. 37).

81. A creditor or contributory may give a special proxy to any person to vote at any specified meeting or adjournment thereof on all questions relating to any matter given in the agenda and arising at the meeting or adjournment thereof. (Form No. 36).

Special proxies.

82. A creditor or contributory in a winding up by the Court may appoint the Official Liquidator or, if there is no Liquidator, the Chairman of a meeting to act as his general or special proxy.

Proxy to Official Liquidator.

83. No person acting either under a general or special proxy shall vote in favour of any resolution which would directly or indirectly place himself, his partner or employer in a position to receive any remuneration out of the assets of the company otherwise than as a creditor rateably with the other creditors of the company. Provided that, where any person holds special proxies to vote for an application to the Court in favour of the appointment of himself as Official Liquidator, he may use the said proxies and vote accordingly.

Holder of proxy not to vote on matter in which he is financially interested.

84. A proxy intended to be used at a meeting of creditors or contributories held under section 178-A or on adjournment thereof, shall be lodged with the Official Liquidator not later than the time mentioned for that purpose in the notice convening the meeting or the adjourned meeting, which time shall be not earlier than 12 o'clock at the noon of the day before the day appointed for such meeting unless the Court otherwise directs.

Filing of proxies.

85. Where an Official Liquidator, who holds any proxies, cannot attend the meeting for which they were given, he may, in writing, depute some person under his official control to use the proxies on his behalf and in such manner as he may direct.

Use of proxies.

86. The proxy of a creditor, blind or incapable of writing, may be accepted if such creditor has attached his signature or mark thereto in the presence of a witness, who shall add to his signature his description and residence : Provided that all insertions in the proxy are in the handwriting of a witness and such witness has certified at the foot of the proxy that all such insertions have been made by him at the request and in the presence of the creditor before he attached his signature or mark.

Filing of proxies by creditors incapable of writing.

The proxy shall be witnessed by some person other than the person appointed proxy.

DEBTS, CLAIMS AND PROOFS

87. For the purpose of ascertaining the debts due by and claims against the company and of requiring debts and claims to be proved an advertisement shall be published by the Official Liquidator in such manner as the Judge shall direct. Such advertisement shall be in Form No. 38. Unless otherwise ordered by the Judge, the date fixed in the advertisement shall not be less than 14 days from the date of the publication thereof.

88. In a winding up by the Court, every creditor shall subjects as hereinafter provided prove his debt unless the Judge in any particular case shall give directions that any creditor or class of creditor shall be admitted without proof.

89. A debt may be proved in any winding up by delivering or sending through the post an affidavit. The affidavit may be made by the creditor himself or by some person authorised by or on his behalf. If made by a person so authorised, it shall state his authority and means of knowledge.

90. The affidavit proving a debt shall contain or refer to a statement of account showing the particulars of the debt and shall specify the vouchers, if any, by which the same can be substantiated. The Liquidator to whom the proof is sent may at any time call for the production of the vouchers.

91. An affidavit proving a debt shall state whether a creditor is or is not a secured creditor. Where a creditor seeks to prove in respect of a bill of exchange, promissory note or any other negotiable instrument or security of a like nature on which the company is liable, such bill of exchange, note, instrument or security must be produced to the Liquidator and be marked by him before the proof is admitted. Such affidavit shall be in Form No. 40.

92. No creditor need attend upon the investigation, nor prove his debt or claim unless required to do so by notice from the Official Liquidator, to be given by pre-paid letter post at the last known address of the creditor. Such notice shall be in Form No. 41.

93. A creditor so required to prove his debt or claim shall do so by affidavit to be sent by him to the Official Liquidator by registered letter post and if not made by the creditor himself such affidavit shall state the authority and means of knowledge of the deponent. Such affidavit shall contain particulars of any security held sufficient to identify the same and shall be in Form No. 40.

94. The Official Liquidator may at any time call for the production of the securities or vouchers specified in the affidavit referred to in Rule 93 and in default of such production may reject the proof.

95. The Official Liquidator shall within twenty-eight days after receiving a proof either admit or reject it wholly or in part and shall thereupon inform those creditors whose claim he wholly admits of his decision in respect of such claims, If he rejects the proof, he shall state in writing to the creditor the grounds of the rejection.

96. When the Official Liquidator has completed his investigation of all debts and claims he shall file a list thereof in Court supported by affidavit and obtain an appointment from the Judge to settle the same, and shall give not less than seven days' notice of such appointment to every person included in such list except those whose claims he wholly admits stating that his debt or claim has been rejected in whole or in part, as the case may be, and requiring him to prove as much of it as has been rejected before the Judge. Such affidavit and notice shall be in Form No. 43.

97. Upon the date appointed for settlement of the list of creditors or any adjourned date, the Judge shall adjudicate thereon.

98. Such creditors as prove their debts or claims shall, unless the Judge shall otherwise direct, bear the costs of such proof.

99. The settlement of the list of debts and claims shall be recorded in a certificate signed by the Judge in Form No. 45.

100. If the Official Liquidator is of opinion that a proof has been improperly admitted he may apply, on notice to the creditor who made the proof, to expunge the proof or reduce its amounts.

101. If the Official Liquidator declines to interfere in the matter, a creditor or contributory may apply to the Judge to expunge or reduce a proof.

LIST OF CONTRIBUTORIES

Liquidator to settle list of contributories.

102. The Official Liquidator shall, with all convenient speed after his appointment, settle a list of contributories of the Company and shall appoint a time and place for that purpose. The list of contributories shall contain a statement of the address and the number of shares or the extent of interest to be attributed to each contributory, and the amount called up, and the amount paid up in respect of such shares and interest, and shall distinguish the several classes of contributories. As regards the representative contributories, the Official Liquidator shall observe the requirements of sub-section (2) of section 184 of the Act. (Form No. 46).

Appointment of time and place for settlement of the list.

103. (a) The Official Liquidator shall give notice in writing of the time and place appointed for the settlement of the list of contributories to every person whom he proposes to include in the list and shall state in the notice to each person in what character and for what number of shares or interest he proposes to include such person in the list, and what amount has been called up and what amount paid up in respect of such shares or interest. (Form No. 47).

(b) The notice shall be sent by registered post (acknowledgement due) unless the Court otherwise directs.

Settlement of the list of contributories.

104. (a) On the day appointed for settlement of the list of contributories, the Official Liquidator shall hear any person who objects to being settled as a contributory and after such hearing shall finally settle the list, which, when so settled, shall be the list of contributories of the company.

(b) The Official Liquidator may, from time to time, vary or add to the list of contributories, but any such variation or addition shall be made in the same manner in all respects as the settlement of the original list.

(c) The list of contributories, as settled by the Official Liquidator from time to time, shall be filed in Court duly verified by his affidavit.

Notice to contributories of final settlement.

105. (1) The Official Liquidator shall forthwith give notice to every person whom he has finally placed on the list of contributories, stating in what character and for what number of shares or extent of interest he has been placed on the list of contributories and what calls prior to liquidation are still unpaid and what are his uncalled liabilities, and in such notice inform such person that any application for the removal of his name from the list or for a variation of the list must be made to the Court on notice to the Liquidator within 30 days from the date of the service on the contributory or alleged contributory of notice of the fact that his name has been settled on the list of contributories. (Form 51).

(2) The Official Liquidator or his attorney shall file an affidavit of service of the above notice on all the persons included in the list. (Form No. 52).

Application to the Court to vary the list.

106. Subject to the power of the Court to extend the time or to allow an application to be made notwithstanding the expiration of the time limited for that purpose, no application to the Court by any person who objects to the list of contributories, as finally settled by the Official Liquidator, shall be entertained after the expiration of 30 days from the date of the service on such person of notice of the settlement of the list.

Endorsement by Judge on the settlement of list of contributories.

107. After the Official Liquidator has filed the list of contributories in Court and after hearing objections, if any, to the inclusion in or exclusion from the list, the Judge shall record an endorsement on the list. (Form No. 55.)

Address of contributories.

108. The address of a contributory as stated in such list shall, unless otherwise directed by the Judge, be his address for service under these rules.

List open to inspection.

109. The list of contributories, referred to in the foregoing rules, will be open to inspection by any of the creditors and contributories of the company in the office of the Official Liquidator or in the Court.

CALLS

Application for call.

110. In a winding up by the Court an application by the Official Liquidator for leave to take a call on the contributories of a company or any of them, shall be made by petition. Upon such application the Judge, if he admits the petition, shall fix a date for the hearing thereof. Such petition shall be in Form No. 56. Notice of such date shall be given by advertisement or otherwise as the Judge may direct. No contributory shall be served with an individual notice unless the Judge shall direct and every notice and advertisement shall be given or published at least ten clear days before the date so appointed. (Form Nos. 59 and 60).

Service of order for call.

111. (1) When any order authorising a call has been made, a copy thereof shall forthwith be served by registered post, or as the Judge may direct, upon each of the contributories liable to pay such call together with a notice by the Official Liquidator making such call and specifying the amount due from such contributory in respect of such call. (Forms Nos. 61 and 62).

(2) After the despatch of the above notice to contributories, the Official Liquidator or his clerk or agent shall file in Court his affidavit showing the manner in which the service of this notice has been effected. (Form No. 63).

Affidavit of non-payment.

112. For the purpose of enforcing any order for payment of money into one of the scheduled Banks in which the Liquidator has account, or in Court, an affidavit of the Official Liquidator shall be sufficient evidence of the non-payment thereof.

113. The official Liquidator's affidavit in support of an application for an order of payment against the defaulting contributories shall be in Form No. 65.

PAYMENTS OF MONEYS AND DEPOSIT OF SECURITIES

Liquidation banking account.

114. Upon the winding-up Order being made, the Official Liquidator shall, as soon as may be after his appointment, open an account with a scheduled Bank as defined

in clause *(e)* of section 2 of the Reserve Bank of India Act, 1934, as nominated by the Court, or in the case of a district Court, with that Court, in the name of the Official Liquidator of the company in liquidation.

Payments on account of calls, etc. how to be made.

115. All orders for payment of calls, balances or other moneys due from any contributory or other person shall direct the same to be paid into the scheduled Bank, where the Official Liquidator has account under orders of the Court, or into Court, to the account of the Official Liquidator of the Company, unless, on account of the smallness of amount or other cause, it shall (having regard to the amount of the security given by the Official Liquidator) be thought proper to direct payment thereof to the Official Liquidator. Provided that where any such order has been made directing payment of a specific sum into the bank or into Court, in case it shall be thought proper for the purpose of enabling the Official Liquidator to take execution or other proceedings to enforce the payment thereof, or for any other reason, an order may, either before service of such former order or after the time thereby fixed for payment, be made without notice for payment of the same sum to the Official Liquidator.

Investment of money.

116. All or any of the money for the time being standing to the credit of the account of the Official Liquidator at any of the scheduled Banks as defined in clause *(e)* of section 2 of the Reserve Bank of India Act, 1934, where the Official Liquidator has account, or in Court, and not immediately required for the purpose of the winding up, may be invested in the purchase of Government Promissory Notes in the name of the Official Liquidator or in deposit receipt of the Bank, as aforesaid, as the Judge upon the application of the Official Liquidator may direct. All such investment shall be made upon a request signed by the Official Liquidator and countersigned by the Judge, which request shall be sufficient authority for debiting the account with the purchase-money. Such Government Promissory Notes or Deposit Receipts shall not afterwards be sold or transferred or otherwise dealt with except upon a direction for that purpose signed by the Official Liquidator and countersigned by or under an order made by the Judge.

Interest upon Investments.

117. All interest accruing upon any such Government Promissory Notes or Deposit Receipts shall, from time to

time, be received by any of the scheduled Banks as defined in clause *(e)* of section 2 of the Reserve Bank of India Act, 1934, where the Official Liquidator has account, or the Court, and placed to the credit of the account of such Official Liquidator.

Title of Account in Bank.

118. All moneys, bills, hundies, notes and other securities paid and delivered into any of the scheduled Banks as defined in cl. *(e)* of section 2 of the Reserve Bank of India Act, 1934, where the Official Liquidator has account or into Court, shall be placed to the credit of the account of the Official Liquidator of the Company, and orders for any such payment and delivery shall direct the same accordingly.

Bills, hundies, etc., where to be deposited.

119. All bills, hundies, notes and other securities payable to the company or to the Official Liquidator thereof, shall as soon as they shall come to the hands of the Official Liquidator, be deposited by him in any of the scheduled Banks as defined in clause *(e)* of section 2 of the Reserve Bank of India Act, 1934, for the purpose of being presented for acceptance and payment, or for payment only, as the case may be, or shall be dealt with as the Court shall order.

Payment of moneys and deposit to securities. Default to payment into Bank.

120. Where any Official Liquidator shall not pay all the moneys received by him into any of the scheduled banks as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934, where the Official Liquidator has account, or in the case of a District Court, into that Court, to the account of the Official Liquidator of the company, within seven days next after the receipt thereof, unless the Judge shall have otherwise directed, such Official Liquidator shall be charged in his account with rupees ten for every thousand rupees and proportionate sum for any larger amount retained in his hands beyond such period for every seven days during which the same shall have been so retained, and the Judge may, for any such retention, disallow the salary or remuneration of such Official Liquidator.

Drawing accepting, etc., of bills.

121. The sanction of the Judge to the drawing, accepting, making or endorsing of any bill of exchange, hundi, promissory note, by any Official Liquidator, shall be testified by a memorandum on such bill of exchange, hundi or promissory note signed by the Judge or by the Registrar under the direction of the Judge, unless the

Judge in special cases dispenses with this formality and orders otherwise.

122. No moneys or bills, or hundies or other securities shall be paid out of the aforesaid banking account except upon cheques or order signed by the Official Liquidator.

On what authority moneys, etc., to be delivered by the Bank.

BAD DEBTS

123. Every/application for the sanction of the Judge to write off any amount due from any contributory or other person indebted to the company shall be supported by the affidavit of the Official Liquidator stating that he has investigated the affairs of such contributory or person and that for the reasons stated he believes that the amount sought to be written off is such as is not likely to be recovered by any process of the Court.

Writing off of amounts irrecoverable.

PRIVATE EXAMINATION

124. An application for a summons under section 195 of the Act shall be made to the Judge on petition verified by affidavit and may be made by the Official Liquidator or upon notice to the Official Liquidator, by a creditor or contributory. The person or persons to be examined will be allowed a reasonable sum of his or their expenses. The summons shall be in Form No. 74.

Examination under Section 195.

125. The person so summoned will be entitled to be attended in his examination by his counsel who may with the permission of the Court put such questions as the Court may allow.

Counsel's attendance..

126. At the examination of a person summoned under the said section, the Official Liquidator and the applicant (if other than the Official Liquidator) may attend in person, or, with the sanction of the Judge, by attorney and advocate and may not such questions to the persons examined as the Judge may allow.

Who may attend the examination.

127. Unless the Judge shall otherwise order, no examination of a person summoned under section 195 of the Act shall take place in open Court, and the note of the deposition of any person so examined, notwithstanding that such notes shall have been filed, shall not be open

Proceedings not to be public.

to the inspection of any person other than the Official Liquidator nor shall any copy thereof or extract therefrom be supplied to any person other than the Official Liquidator save upon the order of the Judge.

Signature of examinee.

128. Notes of the examination shall be taken in writing and shall be read over to, or by, and signed by the person examined.

PUBLIC EXAMINATION

Public examination.

129. An application for a summons under section 196 of the Act shall be made to the Judge on petition duly verified by an affidavit and may be made by the Official Liquidator or, upon notice to the Official Liquidator, by a creditor or contributory. The application as well as the affidavit shall contain a brief description of the fraud alleged.

The Court may after considering the petition direct the person or persons concerned to attend before the Court for examination. (From No. 75).

Procedure consequent on order for public examination.

130. Where the Judge makes an order under section 196 of the Act directing any person or persons to attend for public examination

(a) the examination shall be held before the Judge, provided that, in the High Court, the Judge may direct that the whole or any part of the examination of any such person or persons be held before the Registrar or the Deputy Registrar.

(b) The Judge may, if he thinks fit either in the order for examination, or by any subsequent order give directions as to the special matters on which any such person is to be examined.

(c) Where on an examination held before any of the persons mentioned in sub-section 9 of the said section, it appears to such person that the examination is being unduly or unnecessarily protracted, he may adjourn the examination of any person or any part of the examination to be held before the Judge.

131. Upon an order directing a person to attend for public examination being made, the Official Liquidator shall apply for the appointment of a day on which the public examination is to be held. Application for day of holding examination.

132. A day and place shall be appointed for holding the public examination and notice of the day and place so appointed shall be given by the Official Liquidator or the Court, as the case may be, to the person who is to be examined, by sending such notice in a registered cover, addressed to his usual or last known address. (Form Nos. 76 and 77). Appointment of time and place o public examination.

133. (1) The Official Liquidator shall give notice of the time and place appointed for holding a public exami- nation to the creditors and contributories by advertisement in such newspapers as the Court or the Registrar may, from time to time, direct. (Form No. 78). Notice of public examination to creditors and contributories.

(2) Where an adjournment of the public examination has been directed, notice or the adjournment shall not, unless otherwise directed by the Court, be advertised in any newspaper.

134. If any person who has been directed by the Court to attend for public examination, fails to attend at the time and place appointed for holding or proceeding with the same, and no good cause is shown by him for such failure, or if before the day appointed for the examination the Official Liquidator satisfies the Court that such person has absconded or that there is reason for believing that he is about to abscond with the view of avoiding examination, it shall be lawful for the Court, upon it being proved to the satisfaction of the Court that notice of the order and of the time and place appointed for attendance at the public examination was duly served, without any further notice, to issue a warrant for the arrest of the person required to attend, or to make such other order as the Court shall think just. (Form No. 97). Default in attending.

MISFEASANCE

135. An application under section 235 of the Act shall contain the particulars on which the claim is based and a copy of the application with the grounds thereof shall be served on every person, against whom an order is Application against delinque directors Officer and promoters.

sought, not less than 8 days before the day named in the summons for hearing the application. Where the application is made by the Official Liquidator. he shall state the facts and information on which he proceeds, which shall be verified by an affidavit, or appear from sworn evidence in other proceedings. Where the application is made by any other person, it shall be supported by an affidavit to be filed by him.

On the return of the summons, the Court may give such directions, as it shall think fit, for the hearing of the summons, the taking of evidence, wholly or in part, by affidavit or orally and counter affidavits in reply to affidavits in support of or in opposition to the application.

Who may appear?.

136. At the hearing, the Official Liquidator, the applicant (if other than the Official Liquidator), any other person whom the Judge may allow and any person against whom an order is sought, may appear and may do so by attorney or advocate and may put such question to any person orally examined as the Judge may allow.

DIVIDENDS

Sanction of dividends.

137. No dividend shall be declared by the Official Liquidator without the sanction of the Judge.

Notice of dividend.

138. No less than one month's notice shall be given by the Official Liquidator of his intention to declare and pay a dividend. Such notice shall be given by advertisement unless the Judge otherwise directs. (Form No. 80),

Transmission of dividend by post.

139. Dividends may, at the request and risk of the Person to whom they are payable, be transmitted to him by post.

Payment of dividend to nominee.

140. A person to whom dividends are payable may lodge with the Official Liquidator an authority in writing to pay such dividends to another person named therein. (Form No. 82).

Return of capital to contributories

141. Every order, by which the Official Liquidator in a winding up by the Court is authorised to make a return to contributories of the company, shall, unless the Judge otherwise directs, contain or have appended thereto a

schedule or list (which the Official Liquidator shall prepare), setting out in tabular form the names and addresses of the person to whom the return is to be made, and the amount of money payable to each person, and particulars of the transfers of shares, if any, which have been made, or the variation in the list of contributories which have arisen since the date of the settlements of the list of contributories. (Form No. 83).

COMPROMISES

Sanction of Judge to compromise.

142. Every application for the sanction of the Judge to a compromise with any contributory or other person Judge indebted to the company shall be supported by the affidavit of the Official Liquidator stating that the Official Liquidator has investigated the affairs of such contributory or person and that he believes the proposed compromise to be beneficial to the company. The Official Liquidator shall also state in the application the reasons for such belief. (Form No. 85).

SERVICE OF NOTICES, ETC.

Service on contributories and creditors-how effected..

143. Service upon contributories and creditors shall be effected (except when personal service is required) by sending the notice or copy of the petition, summons, order or other proceedings, through post in a registered acknowledgement due cover addressed to the party or his attorney, advocate or agent, at the address entered or last entered pursuant to rule 108, or if no such entry has been made, then in the case of a contributory, to his last known address or place of abode, and in the case of a creditor, to the address given by him pursuant to rule 149 and such notice or copy, summons, order or other proceedings shall be deemed to have been served at the time the same would be delivered in due course of post.

In the case of those companies in liquidation, in which the Official Liquidator has little or no funds at his disposal, the Judge may allow letters, etc., to be sent under certificate of posting and not by registered acknowledgement due post.

The Judge may also permit notice, etc., to be served by hand.

Service not invalidated by misdescription.

144. No service under these rules shall be deemed invalid by reason of any error or omission in the name, style or designation of the person on whom service is sought to be made, provided the Judge is satisfied that such person has not been prejudiced thereby.

To whom warrants, etc., may be addressed..

145. A warrant of arrest or any other warrant issued under provisions of the Act and rules may be addressed to the bailiff of the Court, or such other Court, whether that Court has jurisdiction to wind up a company or not, as the Court may in each case direct. The officer executing any warrant or serving any notice or process, etc., shall submit an affidavit in support of his report as to the service or non-service of the Warrant, notice or process, etc.

SCHEME OF COMPOSITION

Scheme of composition.

146. (a) Every petition under section 153 of the Act shall be verified by affidavit and duly accomanied by the relevant papers, statements, etc., in support thereof.

(b) The Court may order a meeting of the creditors or any class of creditors, or of contributories or any class of contributories, or of both creditors and contributories of the company to be called, held and conducted in such manner as may be directed so as to know their wishes.

(c) The Court shall, while directing a meeting of creditors or contributories or both, as the case may be, nominate a Chairman to preside over the said meeting. The Chairman so appointed may be a creditor or Contributory or Official Liquidator. The Official Liquidator shall notify by an advertisement in a paper or papers to be selected by the Court for the purpose, the date, time and place of the meeting. (Form No. 88).

(d) Notice will also be sent to the class of persons required to attend the meeting by registered post. The notice shall be accompanied by a copy of the order, directing the holding of meeting, a copy of the scheme to be considered at the meeting and a form of proxy to be used by them in case they are not attending the meeting personally.

(e) The result of the proceedings of this meeting shall be reported by the Chairman to the Court.

(f)) The Manager of the company or the Official Liquidator, or the Manager's or Official Liquidator's attorney or clerk, shall file an affidavit of service of notices issued to the creditors and contributories and of the advertisement of the dates of the meetings.

(g)) The Court may sanction the scheme adopted by the creditors and contributories with such modifications as it may think just and proper or may reject the same as a whole.

Cost of attendance of contributories, or creditors.

ATTENDANCE AND APPEARANCE

147. Every person for the time being on the list of Cost of contributories of the company as filed in Court by the Official Liquidator and every person whose debt or claim against the company, shall have been allowed by the Judge, shall be at liberty, at his own expense, to attend the proceedings before the Judge, and shall be entitled, upon payment of the cost occasioned thereby, to have notice of all such proceedings as he shall, by written request, desire to have notice of; but if the Judge shall be of opinion that the attendance of any such person upon any proceedings has occasioned any additional cost which ought not to have been borne by the funds of the company, he may direct such costs or a gross sum in lieu thereof to be paid by such person and such person shall not be entitled to attend any further proceedings until he has paid the same.

Appointment or one or more contributories or creditors as representatives of other contributories or creditors.

148. The Judge may from time to time appoint any one or more of the contributories or creditors, as he thinks fit, to represent before him, at the expense of the company, all or any class of contributories or creditors upon any question as to a compromise with any of the contributories or creditors, or in and about any other proceedings before him relating to the winding up of the company and may remove the person or persons so appointed. In case more than one person shall be so appointed, they shall employ the same attorney, advocate or agent to represent them.

Only contributories or creditors whose names are entered are entitled to attend.

149. No contributory or creditor shall be entitled to attend any proceedings before the Judge, unless and until he has entered in a book to be kept for that purpose, his name and address and the name and the address of his attorney, advocate (pleader) or agent (if any), and upon

any change of his address or of his attorney, advocate, pleader or agent, his new address and the name and address of his new attorney, advocate, pleader or agent. (Form No. 87).

SALE

Mode of sale.

150. Any movable or immovable property belonging to the company may, with the sanction of the Judge, be sold by the Official Liquidator or an agent or auctioneer appointed by him for such purpose or, if the Judge shall so direct, in the same manner as a sale under a decree or order of the Court.

151. Any movable or immovable property belonging to the company may be sold with the approbation of the Judge in such manner as the Judge shall direct, and the Judge may, on any sale by public auction, fix a reserve bidding; and unless on account of the small amount of the purchase money or other cause, it shall (having regard to the amount of security given by the Official Liquidator) be thought proper that the purchase money shall be paid to him, all conditions and contracts of sale shall provide that the purchase money shall be paid by the respective purchasers in any of the scheduled Banks, as defined in clause *(e)* of section 2 of the Reserve Bank of India Act, 1934, where the Official Liquidator has account.

Expenses of sale.

152. Where property forming part of a company's is sold by the Liquidator through an auctioneer or other agent, the gross proceeds of the sale, unless the Court shall otherwise direct, shall be paid over by such auctioneer or agent, and the charges and expenses connected with the sale shall afterwards be paid to such auctioneer or agent, if the Official Liquidator is satisfied of the correctness of such charges and expenses. Every Liquidator, by whom such autioneer or agent is employed, shall, unless the Court otherwise orders, be accountable for the proceeds of every such sale.

ADVERTISEMENTS

Advertisement –how to be published.

153. When advertisement is required for any purpose, except when otherwise directed by these rules, the advertisement shall be published as the Judge shall direct,

or it may take the form of a public notification or proclamation. The Judge, however, may in such cases as he shall think fit, dispense with any advertisement required by these rules.

APPLICATIONS FOR RECOVERY OF MONEY

154. Every application to the Court for recovery of moneys due from contributories shall state particulars as nearly as in a plaint in a civil suit, and shall be accompanied by the document or copies of account supporting the claim. It shall be supported by an affidavit of the Liquidator. The further proceedings shall be of the nature of a suit as nearly as circumstances may require before a final order for payment is passed.

Application under section 186.

REGISTRATION OF PETITIONS AND REPORTS

155. (1) All petitions shall be registered and numbered immediately on their receipt and placed before the Court for orders.

Procedure re: petitions and reports.

(2)) All reports submitted by the Liquidator, the Provisional Liquidator or the Official Liquidator shall be registered and numbered (in a register kept for the purpose) and placed before the Judge in Chamber or in Court without delay for orders.

(3)) The reports so received shall form part of the Court records. The Liquidator, Provisional Liquidator and the Official Liquidator, as the case may be, shall be supplied with true copies of the orders passed on the reports.

Notice of petition to Official Liquidator.

156. Every creditor or contributory or any other person connected with the affairs of the company in liquidation, who proposes to file a petition with regard to the affairs of the company, shall give notice of his doing so in writing to the Official Liquidator along with a copy of the same before filing such petition.

The Official Liquidator immediately on receipt of such notice shall find out from the Court the date of hearing of such petition and shall attend duly prepared to support or oppose the same on the date of hearing.

APPEALS AGAINST ORDERS OF OFFICIAL LIQUIDATOR

Petition against the order of official Liquidator.

157. An application under section 183(5) of the Act shall be made by petition supported by an affidavit of the applicant on notice to the Official Liquidator and shall be made within 30 days from the date of the act or decision complained of. The application need not be accompanied by a copy of the order complained of.

EXTENSION OF TIME

Extension of time.

158. The Court may, in any case in which it shall see fit, extend the time appointed by the rule or fixed by any order of the Court for doing any act or taking any proceedings.

Applicability of rules.

159. These rules shall apply to proceedings under the Indian Companies Act amended by Act XXII of 1936 and the winding up proceedings continued under the Indian Companies Act VII of 1913, in pursuance of section 246 of the Act, shall be regulated by the rules made under the Act of 1913.

Inspectioin of books by contributories creditors.

160. Every contributory of the company and every creditor thereof, whose debt has been allowed, shall, subject to the order of the Court, be entitled at all reasonable times to inspect all books of accounts papers or documents relating to the winding up of the company, in the custody of the Official Liquidator, and at his own expense to take copies or extracts from the same, or to be furnished with such copies or extracts.

The person intending to inspect the record or applying for copies of documents in possession of the Official Liquidator shall have to pay the same charges as are prescribed by the rules of the Court in respect of proceedings other than winding up.

Register of proceedings.

161. A register shall be kept by the court of all proceedings before the Court in each matter with proper dates, so that all the proceedings may appear consecutively and in chronological order with a short statement of the question or points decided or ruled at every hearing.

162. Where an order is made in the High Court for payment of any costs, the order shall direct the taxation thereof by the Registrar or the Deputy Registrar of the Court except in cases where a gross sum in lieu of the taxed costs is fixed by the order.

Taxation of costs.

TERMINATION OF WINDING-UP PROCEEDINGS

163. Upon the termination of the proceedings for the winding up of any company a balance sheet shall be brought in by the Official Liquidator showing the result of his receipts and payments, duly verified by his affidavit, and the Official Liquidator shall pass his final accounts and the balance, if any, due thereof, shall be certified by the Judge, and upon payment of such balance, in such manner as the Court shall direct, the recognizance entered into by the Official Liquidator and his sureties may be vacated.

Official Liquidator to present a balance sheet upon termination of proceedings.

164. When the Official Liquidator has passed his final accounts and the balance, if any, certified to be due thereof, has been paid in such manner as the Court shall direct, a certificate shall be made by the Judge that the affairs of the company have been completely wound up, and in case the company has not already been dissolved, the Official Liquidator shall, immediately after the issue of such certificate, supply to the Judge for an order that the company be dissolved from the date of such order. (Forms Nos. 89 and 90.)

Judge to certify that the company has been completely wound up.

165. The record shall consist of part A and part B. Part A shall contain the following papers:-

Destruction of records.

(1) The index of papers.

(2) The order sheet or chronological abstract of orders.

(3) The plaint or petition together with any schedule annexed thereto.

(4) The written statement.

(5) The memorandum of issues with amended or additional issues, if any.

(6) All depositions of witnesses.

(7) All documents received by the Court during the trial as evidence between the parties other than copies of civil, revenue or municipal records.

(8) Commissions, proceedings held thereunder and report of commissioners.

(9) Applications to refer to arbitration, the award or other final return of the arbitrators, with the proceedings depositions and documents submitted therewith, and any application to set aside the award with the Court's orders thereon.

(10) Instruments of withdrawal, compromise or confession of judgment.

(11) The judgment or other final order.

(12) The decree or order for payment and all documents relating to the preparation or amendment thereof.

(13) All notes in the handwriting of the Judge.

(14) Any order by the Court accepting an application for review of judgment or for a new trial.

(15) Judgments and decrees on appeal, if any.

(16) All orders passed in execution proceedings with all applications, objections, writs, of which service has been effected, notices, reports and returns relating thereto.

(17) All receipts and acknowledgments filed in execution proceedings.

Part B shall consist of all papers not included in part A.

Destruction of judicial records, after the company has been dissolved finally, shall take effect so soon as the period for their retention under the supervision of the

Record Keeper has expired. (For detailed procedure see Chapter 16-F, Volume IV of the Rules and Orders of the Court).

The following instructions shall, however, be followed when destroying the records:

(a) All objections and other proceedings involving the title to immovable property as well as records of attachment, sale and delivery of possession of immovable property in execution of decrees (or orders for payment) with orders passed thereon shall be preserved in perpetuity.

(b) Part A of the records other than mentioned in (a) above shall be preserved for three years from the date of the final dissolution order and shall then be destroyed.

(c) Part B of all cases relating to winding up shall be preserved for one year from the date of the dissolution order and shall then be destroyed Where appeal lies. Part B shall not be destroyed until the period of limitation for the instituting of such appeal has expired, or until the appeal, if instituted, has been decided.

166. When the proceedings for winding up of any company have been completed, all books, papers and documents belonging or appertaining to the company and the books containing the Official Liouidator's accounts shall be deposited in Court for disposal in such manner as the Court may direct having regard to sections 242 and 243 of the Act.

RESTRICTION OF REGISTER OF MEMBERS.

167. Notice of all annlications for rectification of the register of members shall be given to the company and in case of transfer of shares to the transfer or the transferee, as the case may be.

REDUCTION OF CAPITAL

168. An application for an order confirming the reduction of the share capital of a company shall be in Form No. 91.

169. Orders on an application for permission to dispense with the addition of the words "and Reduced" may be made *ex parte*, or the Judge may direct notice to be given of such application.

170. In a case where the creditors of a company are not entitled to object to the proposed reduction, it shall not be necessary to obtain the certificate required by Rule 180 and on the Presentation of the Petition the Judge shall fix a day for the hearing thereof and shall give directions as to the advertisements to be published of the presentation of the petition, so that the first or only insertion of such notice shall be made not less than fourteen days before the date fixed for the hearing. Such notice shall be in Form No. 92.

171. In a case where the creditors are entitled to object to the proposed reduction, notice of the application shall be given to the directors as to the proceedings to be taken for settling the list of creditors entitled to object and for fixing the date with reference to which the list of such creditors is to be made out. (Form No. 92).

172. In a case where the creditors are entitled to object to the Proposed reduction, the company shall, within such time as the Judge shall direct, file a list containing the names and address of the creditors of the company at the date fixed under rule 171 and stating the nature and amounts of the debts due to each of them resnectivelv or in case of any debt payable on a contingencv or not ascertained or of any claim admissible to proof in a winding up of the company, the value so far as can be justly estimated of such debt or claim. Such list shall be verified by the affidavit of an officer of the comnany competent to make the same. Such affidavit shall be in Form No. 94.

173. Copies of such list, containing the names and addresses of the creditors and the total amount due to them, but omitting the amnunt due to them, respectively, or (if the Judge shall think fit) complete copies of such list shall be kept at the registered office of the company and at the office of its attorney, and any person desirous of inspecting the same may, at any time during the usual hours of business, inspect and take extracts from the same on payment of the sum of one rupee .

174. The company shall, within seven days after the filing of such affidavit, or such further time as the Judge may allow, send to each creditor whose name is entered in the said list, a notice stating the amount of the proposed reduction of the capital, and the amount or estimated value of the debt or claim for which such creditor is entered in the said list. Such notice shall be sent by prepaid letter post to each creditor at his last known address. Provided that where such address is not in India, or is not known to the company, the Judge may direct notice to be given to such creditor in such manner as he may think fit. Such notice shall be in Form No. 95.

175. Notice of the filing of the list of creditors shall be advertised by the company in such manner as the Judge shall direct. Such notice shall be in Form No. 96.

176. A creditor entered in the said list who claims to be a creditor for a larger amount than that stated therein shall send his name and address and particulars of the debt or claim, and the name and address of his attorney (if any) to the attorney of the company, within the time stated in such notice being not more than fourteen days from the date of the notice or such further time as the Judge may allow.

177. The company shall, within such time as the Judge shall direct file an affidavit made by its attorney verifying a list containing the names and addresses of persons (if any) who shall have sent in particulars of their debts or claims in pursuance of the notice prescribed by rule 175 and the amounts of such debts or claims. A competent officer of the company shall join in such affidavit proving the despatch and publications of such notices and distinguishing in such list which (if any) of such debts and claims are wholly, or as to any and what part thereof, admitted by the company, and which (if any) of such debts and claims are wholly, or as to any and what part thereof, disputed by the company. Such affidavit shall be in Form No. 97.

178. Where any debt or claim, the particulars of which have been so sent, is not admitted by the company in full, then and in every such case, unless the company is willing to set apart and appropriate in such manner as

the Judge shall direct the full amount of such debt or claim the company shall, where the Judge thinks fit so to direct, send to the creditor a notice that he is required to prove such debt or claim or such part thereof as is not admitted by the company, by affidavit by a day to be therein named being not less than fourteen days after such notice and being the time appointed by the Judge for adjudicating upon such debts and claims. Such notice shall be sent in the manner provided by Rule 174 and shall be in Form No. 98 and such affidavit in proof shall be in Form No. 99.

179. The costs of proof of a debt or claim in pursuance of the notice prescribed by Rule 178 shall be in the discretion of the Judge.

180. The result of the settlement of the list of creditors shall be stated in a certificate which shall be prepared by the attorney of the company and signed by the Judge. Such certificate shall (1) specify debts or claims (if any) which have been disallowed; (2) distinguish (a) debts or claims the full amount of which the company is willing to set apart and appropriate, (b) debts or claims (if any) the amount of which has been fixed by inquiry and adjudication in manner provided by section 59 of the Act, (c) debts or claims (if any) the full amount of which is not admitted by the company, and of which the company is not willing to set apart and appropriate the full amount or the amount of which has not been fixed by inquiry and adjudication as aforesaid; (3) show (a) which of the creditors have consented to the proposed reduction, and the total amount of the debts due to them, (b) the total amount of the debts or claims the payment of which has been secured in manner provided by section 59 of the Act and the person to or by whom the same are due or claimed. It shall not be necessary to show in such certificate the several amounts of the debts or claims of any person who has consented to the proposed reduction or the payment of whose debts or claims has been secured as aforesaid.

181. After the expiration of eight days from the filing of such last mentioned certificate, the petition shall be set down for hearing, by requisition addressed to the Deputy Registrar (Judicial) by the attorney of the company.

182. Notice of the day appointed for the petition to be heard shall, unless the Judge otherwise directs, be advertised in the same manner as the notice under rule 176 so that the first or only advertisement shall be published not less than fourteen days before such day. Such notice shall be in Form No. 100.

183. Any credit included in the said certificate whose debts or claims have not, before the hearing of the petition, been discharged or determined or been secured in manner provided by section 59 of the Act and who has not before the hearing consented to the proposed reduction of capital, may appear at the hearing of the petition and oppose the application. A creditor intending so to appear shall give two days' notice in writing of such intention to the attorney of the company and in default of such notice shall not without the leave of the Judge be entitled to appear. The cost of the appearance of a creditor shall be in the discretion of the Judge.

184. At the hearing of the petition the Judge may, if he thinks fit, give such directions as may seem proper with reference to the securing, in manner mentioned in section 59 of the Act, the payment of the debts or claims of any creditors who do not consent to the proposed reduction; and the further hearing of the petition may, if the Judge thinks fit, be adjourned for the purpose of allowing any steps to be taken with reference to the securing in manner aforesaid the payment of such debts or claims.

185. Where the Judge makes an order confirming a reduction such order shall give directions as to the manner in which, in what newspapers, and at what times notice of the registration of the order and of such minute as is mentioned in section 61 of the Act, shall be published and (unless the addition of the words"and Reduced" shall have been dispensed with altogether or shall be dispensed with henceforth) shall fix the date until which the words"and Reduced" are to be deemed part of the name of the company as provided in section 57 of the Act.

186. Where the Judge shall think fit to require the company to publish the reasons for the reduction of its capital, or anyother information with regard thereto, or the causes which led to such reduction (as provided by section 65 of the Act) the same shall be advertised in such newspapers, in English and in the vernacular, as the Judge shall think fit.

APPENDIX

Form No. 1

PETITION BY UNPAID CREDITOR

In the matter of *(Title)*

The humble petition of (Insert full name [1]**[** & age **]**, title, etc. of petitioner) showeth as follows:—

1. The Company, Limited (hereinafter called the Company), was in the month of 19 incorporated under the Companies Act.

2. The registered office of the Company is at

3. The nominal capital of the Company is Rs divided into shares of Rs.each. The amount of the capital paid up or credited as paid up is Rs.

4. The objects for which the Company was established are as follows :—

(a) (Here set out in paragraphs the facts on which the petitioner relies),

(b)

(c)

5. The Company is indebted to your petitioner in the sum of Rs. for (state consideration for the debt with particulars so as to establish that the debt is due).

6. On the __________day of 19 your petitioner served [or caused to be served by (name of person)] on the company by causing the same to be delivered by registered post, or otherwise, a demand notice under his hand in the words and figures following :—

(set out demand in full).

7. The company has neglected to pay the said sum of Rs. or to secure or compound for it to the reasonable satisfaction of your petitioner.

1. Amended vide Correction Slip No. 165 Rules/II.D4 dated 18.11.2016.

8. The Company is (insolvent and) unable to pay its debts.

9. In the circumstances, it is just and equitable that the Company be wound up.

Your petitioner, therefore, humbly prays as follows :—

(1) That the Company, Limited, may be wound up by the Court under the provisions of the Companies Act.

*Add words in brackets (*) if supervision order is asked for.

*(That the voluntary winding up of the Company, Limited, may be continued but subject to the supervision of the Court.)

(2) Or that such other order may be made in the Premises shall be just.

†Note—It is intended to serve this petition on.

†This note will be necessary if the compay is petitioner.

Form No. 2

WINDING UP PETITION BY A CONTRIBUTORY

(Title)

In the matter of

The humble petition of (name [1][& age], title, etc., of petitioner) showeth as follows:—

1. The Company, Limited, (hereinafter called the Company), was in the month of 19 incorporated under the Companies. Act.

2. The registered office of the Company is at

3. The nominal capital of the Company is Rs. divided into shares of Rs. each. The amount of capital paid up or credited as paid up is Rs.

4. The objects for which the Company was established are as follows:-

(Here set out in paragraphs the facts on which the petitioner relies.)

5. That the petitioner is holder of shares of the Company and has paid Rs. towards these shares.

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1. Amended vide Correction Slip No. 165 Rules/II.D4 dated 18.11.2016.

6. (Here state reasons for belief that the Company must be wound up by the Court or under the supervision of the Court, as the case may be).

Your petitioner, therefore, humbly prays as follows :—

1. That the Company, Limited, may be wound up by the Court under the provisions of the Companies Act, or,

*(That the voluntary winding up of the Company, in Limited, may be continued but subject to the supervision of the Court.)

*Add words in brackets, if supervision order is asked for.

2. Or, that such other order may be made in the premises as shall be just.

†Note—It is intended to serve this petition on

†This note will be unnecessary if the Company is petitioner.

Form No. 3

PETITION FOR WINDING UP BY THE REGISTRAR OF THE COMPANIES

(Title)

Paragraphs Nos. 1, 2, 3 and 4 as in Forms Nos. 1 and 2

5. That from the financial condition of the Company as disclosed in its balance sheet (or from the report of an Inspector appointed under section 138 of the Act), it appears that the Company is unable to pay its debts.

6. That a copy of the Balance Sheet (or copy of the report of the Inspector) is attached herewith.

7. The necessary sanction of the Local Government has been obtained to the presentation of the petition as required by section 166 of the Act.

Your petitioner, therefore, humbly prays as follows:—

1 . That , Limited. may be wound up by the Court under the provisions of Vile Indian Companies Act, or

that such other order may be made in the premises as shall be just.

Registrar
Joint Stock Companies, Punjab.

Form No. 4

VERIFICATION OF PETITION

I, A.B. of , make oath (or solemnly affirm) and say that such of the statements in the petition now produced and shown to me, and marked with the letter 'A', as relate to my own acts and deeds are true, and such of the said statements as relate to the acts and deeds of any other person or persons, I believe to be true.

Sworn, etc,

or solemnly affirmed, etc.

Form No. 5

ADVERTISEMENT OF PETITION FOR WINDING UP.

(Title.)

Notice is hereby given that a petition for the winding up of the above-named Company by the Court (or, subject to the supervision of the Court) was on the day of 19 , presented to the Court of by- the said Company or by A B. of a creditor (or contributory) of the said company or by the Registrar of Companies, as the case may be. And that it has been directed that the said petition shall be heard before the said Court on the day of 19 , and any creditor or contributory of the said company desirous to support cr oppose the making of an order for the winding up of the said company under the above Act, should appear at the time of hearing, by himself or this advocate, attorney, or agent for that purpose; and a copy of the petition will be furnished to any creditor or contributory of the said company requiring the same. on application to the said Court on payment of the charges for the same.

Given under my hand and the seal of the Court, this day, of 19.

Deputy Registrar

Note.—Any person who intends to appear on the hearing of the *said* petition must serve on, or send by post to, the above named notice in writing of his intention so to do. The notice must state the narn· and address o. the Berson, or, if a firm, the name and address of the firm and must be sigrnd by the person or firm, or his/their duly authorised agent or advocate and must be served, or if posted, must be sent by post in sufficient tine to reach the above named not later than 7 clear days before the date of hearing.

Form No. 6

AFFIDAVIT OF SERVICE OR PETITION ON DIRECTORS OFFICERS OR SERVANTS OF THE COMPANY.

(Title.)

In the matter of Company, Limited, and the petition of

I, A.B. of make oath and say :

1. (In the case of service of petition on a company by leaving it with a Director, Officer or Servant at the registered office, or in no registered office, at the principal or last known principal place of business of the Company).

That I did on day, the day of 19 , serve the above-named company with the above-mentioned petition by delivering to and leaving with (name and description), director (or officer), (or servant) of the said company a copy of the above-mentioned petition, duly sealed with the seal of the Court, at (office or place of business as aforesaid), before the hour of in the noon

2. (In the case of no director, officer or servant of the company being found at the registered office or place of business).

That I did on day, the day of 19 , having failed to find any director, officer or servant of the above-named company at (here state registered office or place of business), leave there a copy of the above-mentioned petition duly sealed with the seal of the Court before the hour of in the noon (add with whom such sealed copy was left, or where, e.g., affixed to door of office or place in letter box or otherwise).

3. (In the case of directions by the Court as to the director, officer or servant of the company to be served).

That I did on day, the day of 19 , serve (name or names and description) with a copy of the above-mentioned petition duly sealed with the *seal* of the Court, by delivering the same together with a true copy of the order for substituted service,

dated the day of 19 ,
personally to the said (name) at (place)
before the hour of in the noon
Sworn at etc.

Form No. 7

AFFIDAVIT OF SERVICE OF PETITION ON LIQUIDATOR

(Title.)

In the matter of a petition, dated the day of 19 , for winding up the above company by (or under the supervision of) the Court (as the case may be).

I, A. B. of , make oath and say :

That I did, on day, the day of 19 , serve (name and description), liquidator of the above-named company, with a copy of the above-mentioned petition, duly sealed with the seal of the Court, by delivering the same personally to the said at (place) , before the hour of in the noon.

Sworn at, etc.

Form No. 8

NOTICE OF INTENTION TO APPEAR ON THE HEARING OF PETITION.

(Title.)

Take notice that (state full name or if a firm, the name of the firm, and address), a creditor for Rs. of the above-named company, or contributory (state number and class of shares held) bolding shares in the above company, intends to appear on the hearing of the petition advertised to be heard on the day of 19 , and to support (or to oppose) such petition.

Form No. 9

ORDER FOR WINDING UP BY THE COURT.

(Title.)

Upon the petition of the above-named company [(or A. B.) of , a creditor (or contributory of the above-named company), or of the Registrar of the Companies)] filed on the day of 19 , and the verification thereof by A. B., etc., filed, etc., and upon hearing the advocate for (or attorney or agent of) the petitioner and . for , and upon reading the "Local Gazette" of the day of 19 , the newspaper of the day of 19 (enter any other papers) each containing an advertisement of the said petition. This Court doth order that the said Company be wound up by this Court under the provisions of the Indian Companies Act, VII of 1913.

And it is ordered that the costs of the said petition be taxed and paid out of the assets of the said company.

Judge.

Form No. 10

ORDER FOR WINDING UP SUBJECT TO SUPERVISION.

(Title)

Upon the petition, etc. (as in Form No. 9, this Court doth order that the voluntary winding up of the said company be continued but subject to the supervision of this Court, and any of the proceedings under the said voluntary winding up may be adopted as the Court shall think fit. And the creditors, contributories and liquidators of the said company, and all other persons interested, are at liberty to apply to the Court as there may be occasion.

Judge.

Form No. 11

ADVERTISEMENT OF ORDER TO WIND UP.

(Title.)

By an order made by the in the above matter, dated the day of 19 , on the petition of the above-named company or ( ), it was ordered that the company be wound up by this Court (or under the supervision of the Court) under the provisions of the Indian Companies Act, VII of 1913.

Deputy Registrar

Form No. 12

SUMMONS OR NOTICE OF MOTION FOR PROVISIONAL LIQUIDATORS.

(Title)

Notice is hereby given to

that in the above-noted matter a petition for the appointment of a Provisional Liquidator has been presented and that such petition shall be heard by the Court on the day of 19 ,or at any adjournment, if any. You are required to appear on the said date in person or through duly authorised agent to support or oppose the said petition. If you fail to do so, the petition will be decided according to law.

Given under my hand and the seal of the Court, this day of 19.

Deputy Registrar.

Form No. 13

ORDER APPOINTING A PROVISIONAL LIQUIDATOR AFTER PRESENTATION OF PETITION AND BEFORE WINDING UP ORDER

(Title)

Upon the application, etc., and upon reading; etc; the Court doth hereby appoint (one of) the Official Receiver (s) attached to the Court (or as the case may be) to be provisional Liquidator of the above-named company. (If security dispensed with, add "without security" or if security is to be given, add directions as to security, accounts and payments into the Bank). And the Court doth hereby limit and restrict the powers of the said Provisional Liquidator to the following acts, that is to say (describe the acts which the Provisional Liquidator is to be authorised to do and the property of which he is to take possession).

Judge

Form No. 14

NOTICE TO SUBMIT STATEMENT OF AFFAIRS AND TO ATTEND PROVISIONAL LIQUIDATOR OR OFFICIAL LIQUIDATOR.

(Title)

Notice to

In the case provisional Liquidator.

Take notice that by an order made by the High Court. In the case of on day of 19 in the above matter, I was appointed liquidator of the company *(provisionally) You are, therefore, required to submit to me within 21 days from the said date the statement of affairs of the company duly verified by your affidavit containing the following particulars amongst others as provided by the forms hereafter mentioned:—

(a) the assets of the company stating separately the cash balance in hand and at the Bank, if any ;

(b) the debts and liabilities ;

(c) the names, residence and occupations of the creditors, stating separately the amounts of secured debts and unsecured debts; and in the case of secured debts, particulars of the securities, their value and the date when they are given ;

(d) the debts due to the company and the names residence and occupations of the persons from whom they are due and the amount likely to be realized therefrom.

Default on your part will make you guilty of offence under section 177-A, sub-clause 5 of the Act.

Official (Provisional Liquidator)

Form No. 15

ORDER TO SUBMIT OR CONCUR IN STATEMENT OF AFFAIRS, WITH DIRECTIONS TO ATTENDANCE

(Title.)

Upon the application of , the Official Liquidator (or Provisional Liquidator) of the above-named company and upon reading the order to wind up, dated the day of 19 , and affidavit of the Official Liquidator (or Provisional Liquidator, as the case may be) filed, the day of 19 , it is ordered that , formerly a director of the said company, do within days after service upon him of this order, submit, verify or concur in and verify a statement of the affairs of the said company pursuant to the provisions of section 177-A of the Act, and to the company's winding up Rules.

And it is ordered that the said do attend on the applicant Official Liquidator (or the Provisional Liquidator, as the case may be) at his Office at at o'clock in the noon of day of19 , and give the said applicant all information that he may require as to the affairs of the company; and it is ordered that the said do pay to the applicant the sum of Rs. his ascertained costs of and, incidental to the said application.

Judge

ENDORSEMENT OF THE ORDER

If you, the within named neglect to obey the within order by the time therein limited, you will be liable to process of execution for the purpose of compelling you to obey the same order.

Judge,

Form No. 16

CERTIFICATE EXTENDING TIME FOR STATEMENT OF AFFAIRS.

(Title.)

I. A.B., the Official Liquidator (or the Provisional Liquidator, as the case may be) do hereby certify that I have, under powers given me by section 177-A of the Act and Rules of the High Court for winding up of companies, extended the time for submitting the statement of affairs of the company required of (name of person) from the day of 19 , to the day of 19 .

Official / Provisional Liquidator

Form No. 17

ADVERTISEMENT OF TIME AND PLACE FIXED FOR THE APPOINTMENT OF OFFICIAL LIQUIDATOR.

(Title.)

Notice is hereby given that the Hon'ble Mr. Justice of the Punjab High Court, has fixed the — day of at o'clock at as the time and place for the appointment of an Official Liquidator of the above-named company.

Deputy Registrar

Form No. 18

ORDER APPOINTING AN OFFICIAL LIQUIDATOR

(Title.)

Upon the application, etc., and upon reading, etc., the Court doth hereby appoint R.P.H. Official Liquidator of the above-named company. And it is ordered that the said R. P. H. do on or before the day of next give security (to be approved by the Court). And it is ordered that the said R. P. H. do file an account of his receipts and payments in the prescribed form into this Court not less than twice in each year during his tenure of office as required by section 182(2) of the Act.

It is further ordered that all moneys to be received by the said R. P. H. be paid by him in any scheduled Bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934 (or into the Court) to the credit of the Official Liquidator of the said company within 7 days next after the receipt thereof (unless the Judge shall have otherwise directed).

(In case two or more Official Liquidators are appointed, add) :

And the Court doth declare that the following acts required or authorised by the Act to be done by the Official Liquidator may be done by either (or any one or two) of the Official Liquidators hereby appointed, that is to say (describe the acts), and that all other acts so required or authorised shall be done by both (or all) the Official Liquidators hereby appointed.

Judge

Form No. 19

RECOGNIZANCE OF THE OFFICIAL LIQUIDATOR AND SURETIES

R. P. H. of , W. B. ofand T. P. of before the Court of personally appearing, do acknowledge themselves, and every of them doth acknowledge himself, to owe to the Hon'ble Mr. Justice a Judge of the said High Court (or to Mr. A. B., Judge of the said Court of

the respective sum set opposite to their respective names in the schedule hereto, to be paid to the said Hon'ble Mr. Justice

(or to the said Mr. A.B., as the case may be), or his successors in office and assignees and in default of payment' of the said sums, the said R. P. H., W. B. and T. P. are willing and do agree, and every of them is willing and doth agree for himself, his heirs, executors and administrators, by these presents, that the said sum shall be levied, recovered and received of and from and every of the, and of and from the movable and immovable property of them and every of them, wheresoever the same shall be found.

Dated the day of 19 .

Whereas, in the matter of &c. (take title from order to wind up the Hon'ble Mr. Justice (or the Court of), has by an order, dated the day of 19 , appointed the said R. P. H. Official Liquidator of the said company, and has thereby directed him to give security to be approved of by the said Judge (or in case the secuirty proceeds the order appointing) has approved of the said R. P. H., as a proper person to be appointed Official Liquidator of the said company upon his giving security. And whereas the said Judge has approved of the said W. B. and T. P. to be sureties for the said R. P. H. in the amounts set opposite to their respective names in the schedule hereto, and has also approved of the above written recognizance, with the under-written condition, as proper security to be entered into by the said R. P. H., W. B. and T. P., pursuant to the said order, and in testimony of such approbation the Judge (or Registrar) hath signed an allowance in the margin thereof. Now the condition of the above-written recognizance is such that if the said R. P. H., his executors or administrators, or any of them, do and shall duly account for what the said R. P. H. shall receive, or become liable to pay, as Official Liquidator of the said company, at such periods and in such manner as the said Judge shall appoint, and Pay the same as the said Judge hath (by the said order) directed or shall hereafter direct, then the above recognizance to be void, otherwise to remain in full force and virtue.

In the matter, & 6.

The Hon'ble Mr Justice or the Court of —has approved of and allowed this recognizance.

G.H. Judge or Registrar.

THE SCHEDULE ABOVE REFERRED TO

R.P.H.	...	thousand rupees
W.B.	...	thousand
T.P.	...	thousand

Taken and acknowledged by the above-named R.P.H., etc., etc., etc.

Form No. 20

AFFIDAVIT OF SURETIES

We, W. B. of &c., and T.P. of &c., severally make oath (or, solemnly affirm), and say as follows:—

(1) I, the said W. B. for myself say, that I am worth the sum of rupees over and above what is sufficient for the payment of all my just debts and liabilities.

(2) And I, the said T. P., for myself, say that I am worth the sum of rupees, &c. (as above.)

Sworn, &c.
Or solemnly affirmed

Form No. 21

CERTIFICATE THAT OFFICIAL LIQUIDATOR HAS GIVEN SECURITY

(Title.)

This is to certify that
of who was on
day of 19 , appointed Official Liquidator of the above-named company has duly given security as ordered by the Court.

Judge or
Registrar

Dated :

Form No. 22

ADVERTISEMENT OF APPOINTMENT OF OFFICIAL LIQUIDATOR

(Title.)

NOTICE is hereby given that of
by an order, dated has been appointed Official Liquidator of the above-mentioned company (if more than one person appointed, *add)* with joint and several powers.

Deputy Registrar

Form No. 23

NOTICE (OR ADVERTISEMENT) OF MEETING OF CREDITORS OR CONTRIBUTORIES

(Title.)

Notice is hereby given that the High Court of Punjab at Chandigarh (or the District Court of) has directed a meeting of creditors (or contributories) of the above-named company to be summoned, pursuant to the above Act, for the purpose of ascertaining their wishes at

to (state the object for which meeting called, unless notice is by advertisement, in which case say, certain matters relating to the winding up of the said company), and that such meeting will be
held on day of 19 , at o'clock in the noon-at in the
at which time and place all the creditors (or contributories) of the said company are requested to attend. (The said Court has appointed H.T., etc., to act as Chairman of such meeting).
Dated this day of 19 ,

R.P.H.

Official Liquidator

Form No. 24

NOTICE TO CONTRIBUTORIES OF FIRST MEETING

(*Title.)*

Notice is hereby given that the first meeting of the contributories in the above matter will be held at on the day of 19 ,
at o'clock in the noon,
Forms of general and special proxies are enclosed herewith. Proxies to be used at the meeting must be lodged with me at not later than
O'clock on the day of

Dated this day of 19 ,

Official Liquidator

[The Company's statement of affairs has not been lodged (or has been lodged, and summary is enclosed)].

AGENDA

To determine whether or not an application shall be made to the Court for the appointment of a Committee of Inspection to act with the Liquidator, and who are to be the members of the Committee if appointed.

Form No. 25

NOTICE TO CREDITORS OF FIRST MEETING

(Title)

(Under the order for winding up the above-named company, dated the day of 19).

Notice is hereby given that the first meeting of creditors in the above matter will be held at
On the day of 19 , at-o'clock in the noon.

To entitle you to vote there at your proof must be lodged with me not later than o'clock on the day of 19 .

Forms of proof and of general and special proxies are enclosed herewith. Proxies to be used at the meeting must be lodged with me at not later than o'clock on the day of 19 .

Official *Liquidator.*

Address.

[The statement of the Company's affairs has not been lodged (or has been lodged) and summary is enclosed.]

AGENDA

To determine whether or not an application shall be made to the Court for the appointment of a Committee of Inspection to act with Liquidator, and who are to be the members of the Committee, if appointed.

Form No. 26
NOTICE TO DIRECTORS AND OFFICERS OF COMPANY TO ATTEND FIRST MEETING OF CREDITORS OR CONTRIBUTORIES

(Title)

Take notice that the first meeting of creditors (or contributories will be held on the day of 19 , at o'clock at (meeting place) and that you are required to attend thereat, and give such information as the meeting may require.

Dated this day of 19 ,

Official Liquidator.

To

____

____

Form No. 27

NOTICE OF MEETING (GENERAL FORM)

(Title)

Take notice that a meeting of creditors (or contributories) in the above matter will be held at on the day of 19 , at o'clock in the noon.

Dated this day of 19

Official Liquidator.

Agenda

Forms of general and special proxies are enclosed herewith. Proxies to be used at the meeting must be lodged with at not later than o'clock on the day of 19 .

Form No. 28

AFFIDAVIT OF POSTING OF NOTICE OF MEETING

(Title.)

I, a (description) ,make oath and say as follows :—

(*) Insert here "general" or "adjourned general" or "first" meeting of creditors (or contributories, as the case may be.

1. That I did on the day of 19 , send to each creditor mentioned in the Company's statement of affairs (or to each contributory mentioned in the register of members of the Company) a notice of the time and place of the (*) in the form hereunto annexed marked "A".

2. That the notices for creditors were addressed to the said creditors respectively according to their respective name and address appearing in the statement of affairs of the company or the last known address of such creditors.

3. That the notices for contributories were addressed to the contributories respectively according to their respective names and registered or last known addresses appearing in the register of the company.

4. That I sent the said notice by putting the same prepaid into the post office at before the hour of o'clock in the noon on the said day.

Sworn &c.

FORM NO. 29
CERTIFICATE OF POSTING OF NOTICE (GENERAL)

(Title.)

I, , a clerk in the office of the Official Liquidator, hereby certify:—

I. That I did on the day of 19 , send to each creditor mentioned in the statement of affairs (or each contributory mentioned in the Register of Members of the Company, or as the case may be), a notice of the time and the place of the first meeting (or a general meeting or adjourned general meeting, or as the case may be) in the form hereunto annexed marked "A".

Paragraphs 2, 3 and 4 as the preceding form.

Dated Signature

Form No. 30
MEMORANDUM OF APPOINTMENT OF A PERSON TO ACT AS CHAIRMAN AT MEETING OF CREDITORS OR CONTRIBUTORIES

The Judge of (or Court of —) has appointed Mr. H.T. of & C., one of the creditors (or contributories) of the above-named company, to act as Chairman of a meeting of the creditors (or contributories) of the said company, summoned by direction of the said Judge (or Court), pursuant to the above Act, to be held on the day of 19 , at o'clock At , and to report the result of such meeting to the said Judge (or Court). The said meeting is summoned for the purpose of ascertaining the wishes of the creditors (or contributories) of the said company as to (state the object for which meeting called, and at such meeting the votes of the creditors (or contributories) may be given either personlly or by proxy.

Dated this Day of 19 .

G. H.

Deputy *Registrar* or *Judge.*

Form No. 31

AUTHORITY TO ACT AS CHAIRMAN OF MEETING AND USE OF PROXIES.

(General Heading)

I, the Official Liquidator do hereby nominate Mr. of to be chairman of the meeting of creditors (or contributories) in the above matter, appoinetd to be held at on the day of 19 , ,and I depute him (here insert "Being a person in my employment or under my official control,") to attend such meeting and use, on my behalf, and proxy or proxies held by me in this matter.

Dated this day of 19 .

Official Liquidator.

Form No. 32

MEMORANDUM OF APPOINTMENT OF A PERSON TO ACT AS A CHAIRMAN AT MEETING OF CREDITORS OR CONTRIBUTORIES

(General Heading).

In the matter of the Indian Companies Act, VII of 1913, etc.

Mr H. T, of etc.. one of the creditors (or contributories) of the above-named Company is appointed to act as Chairman of a meeting of the creditors (or contributories) of the said Company, summoned by direction of the said Judge, pursuant to the above Act, to be held on the day of 19 , at o'clock in the noon at and to report the result of such meeting to the said Judge.

The said meeting is summoned for the purpose of ascertaining the wishes of the creditors (or contributories) of the said company as to (state the object for which meeting called) and at such meeting the votes of the creditors (or contributories) may be given either personally or by proxy.

Dated this day of 19 .

Form No. 33
MEMORANDUM OF ADJOURNMENT OF MEETING
(Title)

Before at on the day of 19 , at o'clock.

Memorandum—The (first or as the case may be) meeting of (creditors or contributories, as the case may be) in the above matter was held at the time and place above mentioned; but it appearing that (owing to, etc.) the meeting was adjourned until the day of 19 , at o'clock in the noon, then to be held at the same place. Chairman. _

Form. No. 34
CHAIRMAN'S REPORT OF RESULT OF MEETING OF CREDITORS OR CONTRIBUTORIES
(Title)

I, H. T.. the person appointed by the Hon'ble Mr. Justice (or by the Court of) to act as Chairman of a meeting of creditors (or contributories) of the above-named Company, summoned by advertisement (or notice), dated the day of 19 , and held on the day of 19 , at do hereby report to the said Judge (or Court) the result of such meeting as follows :—

The said meeting was attended either personally or by proxy by , creditors, to whom debts against the said Company have been allowed, amounting in whole to the value of Rs.__ (or by contributories), holding, in the whole,____________ shares in the said Company, and entitled respectively by the regulations of the Company to the number of votes hereinafter mentioned.

The question submitted to the said meeting was, whether the creditors (or contributories) of the said Company approved of the proposal of the Official Liquidator of the said Company, that, etc. (as the case may be) and wished that such proposal should be adopted and carried into effect. The said meeting was unanimously of opinion that the said proposal should (or should not) be adopted and carried into effect (or, the result of the voting upon such question was as follows):

The undermentioned creditors (or contributories) voted in favour of the said proposal being adopted and carried into effect :—

Name of creditor (or contributory)	Address	Value of debt (or number of shares)	Number of votes conferred on each contributory of the Company

The undersigned creditors (or contributories) voted against the said proposal being adopted and carried into effect:-

Name of creditor (or contributory)	Address	Value of debt (or number of shares)	Number of votes conferred on each contributory of the Company

H.T.

Chairman.

Dated this day of 19 .

Form No. 35

APPOINTMENT OF PROXY TO VOTE AT MEETING OF CREDITORS OR CONTRIBUTORIES

I, W. S., of , hereby appoint of as my proxy to vote for me and on my behalf at the meeting of the creditors (or contributories) of the said Company, summoned by direction of Mr. Justice (or by the Court of) to be held on the day of and at any adjournment thereof.

As witness my hand this
day of 19 .

W. S.

Signed by the said W. S. in the presence of

J. H. of &c.

Form No. 36

SPECIAL PROXY

(General Meeting)

I of , a creditor or contributory) hereby appoint as proxy at the meeting of creditors (or contributories) to be held on the day of 19 , or at any adjournment thereof, to vote (for or against, as the case may require and specify the particular resolution).

Dated this day of 19

Signature of witness.

Address. *Signature.*

CERTIFICATE TO BE SIGNED BY PERSON OTHER THAN CREDITOR OR CONTRIBUTORY FILLING UP THE ABOVE PROXY

I, of , being a hereby certify that all insertions in the above proxy are in my own handwriting, and have been made by me at the request of the above-named and in his presence before he attached his signature or mark thereto.

Dated this day of 19 .

Signature.

Form No. 37
GENERAL ATTORNEY

(General Heading)

I, of , a creditor (or contributory) hereby appoint to be general proxy to vote at the meeting of creditors (or contributories) to be held in the above matter on the day of 19 ,or at any adjournment thereof.

Dated this day of 19 .

Signature of witness.

Address. *Signature.*

Notes

1. The authorized agent of a Corporation may fill up blanks, and sign for the Corporation thus :—

For the Company

J. S. (duly authorised under the seal of the Company).

2. The person appointed general proxy must be either the Official Liquidator or a person in the regular employ of the creditor or (contributory).

CERTIFICATE TO BE BY PERSONS OTHER THAN CREDITOR OR CONTRIBUTORY FILLING UP THE ABOVE PROXY

I, of ,being a ( ) hereby certify that all insertions in the above proxy are in my own handwriting, and have been made by me at the request of the above-named and in his presence, before he attached his signature or mark thereto.

Dated this day of 19 .

Signature.

Form No. 38
ADVERTISEMENT FOR CREDITORS

The creditors of the above-named Company are required on or before day of to send in writing their names and addresses and the particulars of their debts or claims and the names and addresses of their Advocates or Attorneys (if any) to the undersigned as Official Liquidator of the said Company at (give place) and, if so required by notice in writing from

The undersigned to come in and prove their said debts or claims either in person or by their attorneys or pleaders at such time and place as shall be specified in such notice, or in default thereof, they will be excluded from the benefit of any distribution made before such debts are proved.

Dated this day of 19 .

Official Liquidator.

Form No. 39

NOTICE TO CREDITORS TO SEND THEIR CLAIMS TO THE LIQUIDATOR

(Title)

To

Dear Sir,

In the books of the above-named Company, you are shown as one of the creditors thereof. You are required on or before day of 19 , to send the particulars of your debts or claims and the names and addresses of your Solicitor, Advocate or Attorney (if any) to the undersigned or in default thereof you will be excluded from the benefit of any distribution made before such debts are proved.

Official Liquidator.

Form No. 40

AFFIDAVIT OF CREDITOR IN PROOF OF DEBT

I, , make oath (or solemnly affirm) and say as follows :—

1. The above-named company was at the date of the order for winding up the same on the day of 19 and still is justly and truly indebted to me in the sum of rupees for, etc. (describe, shortly the nature of the debt and exhibit any security for it; and in case of trade debt, exhibit vouchers and verify reasonableness of the charges, as in proving a debt in a suit) as shown by the account endorsed hereon or by the following accounts.

2. I have not, nor hath nor have any person or persons by my order or to my knowledge or belief for my use, received the sum of rupees or any part thereof of any security or satisfaction for the same or any part thereof. [If any security, add except the said (describe the security) hereinbefore mentioned or referred to].

Form No. 41

NOTICE TO CREDITORS TO COME IN AND PROVE THEIR DEBTS BEFORE THE OFFICIAL LIQUIDATOR

Sir,

You are hereby required to come in and prove the debt claimed by you against the above-named company by filing your affidavit, and you are to attend at my office in person or by your Advocate, Attorney or Pleader on the day of 19 , at o'clock in the noon, at being the time and place appointed for investigating the claims.

Dated this day of 19 .

Official Liquidator.

Form No. 42

AFFIDAVIT OF OFFICIAL LIQUIDATOR AS TO HIS INVESTIGATION OF DEBTS AND CLAIMS

(Title)

I, , of , the Official Liquidator of the above-named Company make oath (or solemnly affirm) and say as follows :—

1. I have, by the paper hereto annexed and marked with letter 'A', set forth a list of all the debts and claims the particulars of which have been sent to me by persons making claims upon, or claiming to be creditors of, the said Company, pursuant to the advertisement issued in that behalf, dated the day of 19 , and the names and addresses of the persons by whom such claims are made.

2. I have investigated the said debts and claims and examined the same with the books and documents of the said Company in order to ascertain, to the best of my ability, which of such debts and claims are justly due from the said Company.

3. I have, in the first part of the said list, set forth such of the said debts and claims as in my opinion are justly due from the said Company and proper to be allowed without further evidence and I have, in the seventh column of the said first part of the said list of debts and claims, stated my reasons for such belief. In the second part of the said list of debts and claims, I have set forth in separate columns such parts of the said debts and claims as in my opinion are proper to be allowed and as are not admitted to be due from the said Company, and I have, in the eighth column of the said second part of the said list, set out my reasons for such belief: and I have, in the third part of the said list of debts and claims, set forth such of the said debts and claims as in my opinion ought to be proved by the respective creditors, and I have in the sixth column of this part of the said list, given my reasons for such belief.

Deponent.

Sworn (or solemnly affirmed), etc.

Exhibit 'A' referred to in the affidavit of sworn (or solemnly affirmed)

before me, this day of 19 .

Signature.

LIST OF DEBTS AND CLAIMS OF WHICH THE PARTI-CULARS HAVE BEEN SENT TO THE OFFICIAL LIQUIDATOR

(FIRST PART)

Debts and claims which ought to be allowed without further evidence.

Serial No.	Name of Creditor	Address and descripion	Particulars of debt or claim	Amount claimed	Amount proper to be allowed	Reasons for bellief that amounts are proper to be allowed
1	2	3	4	5	6	7
				Rs. N.P.	Rs. N.P.	

SECOND PART

Debts and claims which have been partly admitted.

Serial No.	Name of Creditor	Address and descripion	Particulars of debt or claim	Amount claimed	Amount proper to be allowed (a)	Amount not admited (b)	Reasons for bellief that (a) amounts are properto be allowed and (b) amounts not admitted.
1	2	3	4	5	6	7	8
				Rs. N.P.	Rs. N.P.	Rs. N.P.	

THIRD PART

Debts and claims which ought to be proved by the creditors

Serial No.	Name of Creditor	Address and descripion	Particulars of debt or claim	Amount claimed	Reasons for bellief
1	2	3	4	5	6
				Rs. N.P.	

Form No. 43

NOTICE TO CREDITORS TO PROVE THEIR CLAIMS BEFORE THE JUDGE

(*Title*)

Notice to

Whereas, as the Official Liquidator of the above-named Company, I have rejected your claim for (or beyondi Rs._______________on the grounds hereunder (or attached herewith).

Please take notice that you are hereby required to prove before the Judge (the rejected part of) your claim against the above-named company by appearing in person, or by your Attorney or Advocate at the High Court of Punjab at Chandigarh on the day of 19 at o'clock in the forenoon, being the time appointed for hearing and adjudicating upon the claim.

Dated this day of 19 .

Official Liquidator.

Form No. 44

AFFIDAVIT IN SUPPORT OF THE SERVICE OF NOTICE TO CREDITORS TO COME AND PROVE THEIR DEBTS

(Title)

I, , son of , attorney of the Official Liquidator of the above-named Company solemnly affirm and say as under :—

That I did on day of 19 in the matter hereinafter mentioned cause a notice to be served upon the persons named in the 2nd column of the Schedule hereto annexed and marked with the letter "A".

That a true copy of the notice so served is annexed hereto and marked with the letter "B".

That I served the said respective copies of the said notice by putting such copies respectively, duly addressed to such persons respectively or their advocates or pleaders, according to their respective names and addresses, appearing in the said Schedule and with proper postage stamps affixed thereto as Registered Acknowledgment Due letters, into the Post Office at on the said day of 19 .

Deponent

Form No. 45

CERTIFICATE BY JUDGE AS TO SETTLEMENT OF LIST OF DEBTS AND CLAIMS

(Title)

I hereby certify that the result of the adjudication upon debts and claims against the above-named Company, brought in pursuance to the advertisement issued in that behalf, dated the day of 19 , so far as such adjudication has up to the date of this certificate been proceeded with, is as follows : —

The debts and claims which have been allowed are set forth in the first Schedule hereto, and with the interest thereon and cost mentioned in the said Schedule are due to the persons therein named, amount altogether to rupees

I have in the first part of the said Schedule set forth such of the said debts and claims as carry interest thereon has been computed at the rate they respectively carry down to the date of this certificate.

I have in the second part of the said Schedule set forth such of the said debts and claims as do not carry interest.

The claims set forth in the second Schedule hereto have been brought in by the persons therein named, and have been disallowed.

THE FIRST SCHEDULE ABOVE REFERRED TO

FIRST PART

Debts and claims which carry interest

No.	Name of Creditor	Address and Descripion	Particulars of debt	Total Due
1	J.L.		On Bill of Exchange, dated & c. Principal Rs.______ Interest at-per cent per annum from-to date of the certificate. Rs._______Cost of Total First Part Rs.	Rs. N.P.

SECOND PART

Debts and claims which do not carry interest

No.	Name of Creditors	Addresses and Descripions	Particulars of Debt	Interest on Principal	Total Due
25	W.P.		Goods sold- Principal Rs. 500-00 Cost of proof Rs.20-00 Total Rs. .. Add total First Part, Rs. Total First and Second Parts, Rs.	Rs.N.P. 20 00	Rs. N.P. 540 00

The Second Schedule above referred to

Debts and claims which have been disallowed

No.	Name of Creditors	Addresses and Descripions	Particulars of Claims	Amount claimed
				Rs.N.P.

Dated this day of 19

Judge

Form No. 46

LIST OF CONTRIBUTORIES MADE OUT BY THE OFFICIAL LIQUIDATOR/LIQUIDATORS

(Title)

The following is a list of members of the Company liable to be placed on the list of contributories of the said Company made out by me/us from the books and papers of the said Company together with their respective addresses and number of shares (or extent of interest) to be attributed to each, so far as I/we have been able to make out or ascertain the same.

In the first part of the list, the persons who are contributories in their own right have been distinguished. In the 2nd part of the said list, the persons who are contributories as being representatives of, being liable to, the debts of others are distinguished.

Official Liquidator

Serial No.	Name	Address and description	No. of shares or extent of interest	CALLS PRIOR TO LIQUIDATION STILL UNPAID		Uncalled liabilities
				(a) Principal	(b) Interest at per cent	
				Rs. N.P.	Rs. N.P.	Rs. N.P.

SECOND PART

Contributories as being representatives of or liable for the debts of others

Serial No.	Name	Address and description	In what character included	No. of shares or extent of interest	CALLS PRIOR TO LIQUIDATION STILL UNPAID		Uncalled liabilities
					(a) Principal	(b) Interest at per cent	
					Rs. N.P.	Rs. N.P.	Rs. N.P.

Form No. 47

NOTICE TO CONTRIBUTORIES OF APPOINTMENT TO SETTLE THE LIST OF CONTRIBUTORIES

Take notice that I/we, the Official Liquidator/Liquidators of the above-named Company, has/have appointed day of 19 at o'clock in the noon at (insert place or appointment) to settle the list of contributores of the above-named Company made out by me/us pursuant to the Indian Companies Act and the rules thereunder, and that you are included in such list in the character and for the number of shares (or extent of interest) stated below and if no sufficient cause is shown by you to the contrary at the time and place aforesaid, the list will be settled including you therein.

Dated this day of 19 .

Official Liquidator

To

____

____

____

Note- Contributories are under no obligation to attend the appointment referred to in the above notice if they are satisfied that the particulars contained in the notice are correct.

Serial No.	Name	Address and description	In what character included	No. of shares or extent of interest	CALLS PRIOR TO LIQUIDATION STILL UNPAID		Uncalled liabilities
					Principal	Interest at per cent	
					Rs. N.P.	Rs. N.P.	Rs. N.P.

A share-holder's name cannot be omitted from the list of contributories on account of his inability to pay calls; this question will be dealt with when applications made for payment of the calls.

A change of addres may be notified by giving notice by petitioner before the date for the appointment.

Form No. 48

AFFIDAVIT OF POSTING OF NOTICE OF APPOINTMENT TO SETTLE LIST OF CONTRIBUTORIES

(*Title)*

I, attorney/clerk to the Official Liquidator of the above-named Company, solemnly affirm and say as follows:-

1. That I did on the day of 19 in the manner hereinafter mentioned send to each contributory mentioned in the list of contributories made out by the Oficial Liquidator of the above-named Company on the day of 19 and now on the file of proceedings of the above-named Company at the address appearing in such list, a notice of the time and place of the appointment to settle a list of contributories in the form hereunto annexed and marked A, except that in the tabular form at the footof such copies respectively, I inserted the No.

name, address, description, in what character included, and No. of shares (or extent of interest) call prior to the liquidation still unpaid and uncalled liabilities of the persons on whom such copy of the said notice was served.

2. That I served the said respective copies of the said notice by putting such copies respectively duly addressed to such persons respectively or their Advocates or Pleaders or Attorneys, according to their respective names and addresses appearing in the said list and with proper postage stamps affixed thereto, as registered letters with acknowledgments due into the Post Office at on the said day of 19 .

Deponent.

Form No. 49

AFFIDAVIT OF OFFICIAL LIQUIDATOR IN SUPPORT OF LIST OF CONTRIBUTORIES

(Title)

I, the Official Liquidator of the above-named Company, make oath (or solemnly affirm) and say as follows:-

1. The paper writing now produced and shown to me and marked with the letter "A" contains a list of contributories of the said Company, made out by me, after hearing objections (if any) of the contributories to their settlement on the list of contributories, from the books and

papers of the said Company, together with their respective addresses, and number of shares (or extent of interest) to be attributed to each and such list is to the best of my knowledge, information and belief a true and accurate list of contributories of the said Company, so far as I have been able to settle.

2. I have in the first part of the said list marked "A" distinguished such of the several persons as are included in the said list as are contributories in their own right.

3. I have in the second part of the said list marked "A" distinguished such of the several persons included in the said list as are contributories as being representatives of or being liable to the debts of others.

4. I have in the second Schedule of the said list marked "A" set forth the names of such persons as were included in the provisional list of contributories made out by me from the books and papers of the said Company and have been excluded by me on objections taken by them from the list on the dates set opposite their respective names.

Dated day of 19

Official Liquidator

First schedule referred to above

PART FIRST

Contributories in their right

	1	2	3	4	5		6	7
Serial No.	No. on provisio-nal list	Name	Address and descrip-tion	No. of shares or extent of interest	CALLS PRIOR TO LIQUIDATION STILL UNPAID		Uncalled liabilities	Date when included in the list
					(a) Principal	(b) Interest		

PART SECOND

Contributories as being representatives of, or liable for the debts of others

	1	2	3	4	5	6		7	8
Serial No.	No. on provisio -nal list	Name	Address and descrip- tion	In what charac- ter in- cluded	No. of shares or extent of interest	CALLS PRIOR TO LIQUIDATION STILL UNPAID		Uncalled liabilities	Date when include d in he ist
						(a) Principal	(b) Interest		

SECOND SCHEDULE REFERRED TO ABOVE

Persons whose names have been excluded from the list

	1	2	3	4	5		6	7
Serial No.	No. on provisional list	Name	Address and description	No. of shares or extent of interest for which it was intended to incl	CALLS PRIOR TO LIQUIDATION STILL UNPAID		Uncalled liabilities	Date when exclude from the list
					(a) Principal	(b) Interest		

Form No. 50

CERTIFICATE OF OFFICIAL LIQUIDATOR OF FINAL SETTLEMENT OF THE LIST OF CONTRIBUTORIES

(Title)

Pursuant to the Indian Companies Act, VII of 1913, and to the rules made thereunder, I/we the undersigned being the Official Liquidator (s) of the above-named Company, hereby certify that the result of the settlement of the list of contributories of the above-named Company so far as the said list has been settled up to the date of the certificate is as follows :—

1. The several persons whose names are set forth in the second column of the First Schedule hereto have been included in the said list of contributories as contributories of the said Company in respect of the number of shares or extent of interest set opposite the names of such contributories respectively in the said Schedule.

I have in the first part of the said Schedule distinguished such of the several persons included in the said list as are contributories in their own right.

I have in the second part of the said Schedule distinguished such of the said several persons included in the said list as are contributories as being representatives of, or being liable to, the debts of others.

2. The several persons whose names are set forth in the second column of the second Schedule hereto were included in the provisional list of contributories and have been excluded from the said list of contributories.

3. I have in the 7th column of the first part of the first Schedule and in the 8th column of the second part of the first Schedule and in the 7th column of the second Schedule set forth opposite the names of each of the several persons, respectively, the date when such persons were included in, or excluded from the said list of contributories.

4. I have in the 5th and 6th columns of the first part of the said Schedule hereto and in 6th and 7th columns of the second part of the said Schedule set forth opposite the

names of each of the said persons respectively, the amount of calls prior to liquidation still unpaid (showing the principal and interest) and the uncalled liabilities.

5. Before settling the said list, I was satisfied from the records and affidavit of clerk duly filed with the proceedings herein that the notice was duly sent by post to each of the persons mentioned in the said list at his last known address or place of abode informing him that he was included in such list in the character and for the number of shares or extent of interest stated therein, and of the day appointed for finally settling the said list.

Dated this day of 19 .

Official Liquidator.

FIRST SCHEDULE REFERRED TO ABOVE
PART FIRST
Contributories in their own right

	1	2	3	4	5		6	7
Serial No.	No. on provisional list	Name	Address and description	No. of shares or extent of interest for which it was intended to incl	CALLS PRIOR TO LIQUIDATION STILL UNPAID		Uncalled liabilities	Date when exclude from the list
					(a) Principal	(b) Interest at percent		

PART SECOND
Contributories *as being representatives of, or liable for, the debts of others*

	1	2	3	4	5	6		7	8
Serial No.	No. on provisional list	Name	Address and description	In what character included	No. of shares or extent of interest	CALLS PRIOR TO LIQUIDATION STILL UNPAID		Uncalled liabilities	Date when included in the list
						(a) Principal	(b) Interest at percent		

SECOND SCHEDULE REFERRED TO ABOVE

Persons whose names have been excluded from the list

	1	2	3	4	5		6	7
Serial No.	No. on provisional list	Name	Address and description	No. of shares or extent of interest for which it was intended to incl	CALLS PRIOR TO LIQUIDATION STILL UNPAID		Uncalled liabilities	Date when excluded from the list
					(a) Principal	(b) Interest		

Form No. 51

NOTICE TO CONTRIBUTORY OF FINAL SETTLEMENT OF LIST OF CONTRIBUTORIES AND THAT HIS NAME IS INCLUDED

(Title)

Take notice that I/we the Official Liquidator/ Liquidators of the above-named Company have by certificate dated the day of 19 , under my/our hand/hands, so far settled the list of contributories of the said Company (and that you are included in such list) in the character and for the number of shares (or extent of interest) stated below. The amount due from you in respect of call made prior to liquidation and the uncalled liabilities is also shown therein. Any application by you (to vary the said list of contributories or) that your name may be excluded therefrom must be made by you to the Court, as the case may be, within 30 days from the service on you of this notice, or the same will not be entertained.

The said list may be inspected by you in the said Court on any day between the working hours.

Dated day of 19 .

Official Liquidator

FIRST SCHEDULE REFERRED TO ABOVE

PART FIRST

Contributories in their own right

	1	2	3	4	5		6	7
Serial No.	No. on provisional list	Name	Address and description	No. of shares or extent of interest	CALLS PRIOR TO LIQUIDATION STILL UNPAID		Uncalled liabilities	Date when included in the list
					(a) Principal	(b) Interest		

PART SECOND

Contributories as being repressentatives of, or liable for, the debts of others

	1	2	3	4	5	6		7	8
Serial No.	No. on provisional list	Name	Address and description	In what character included	No. of shares or extent of interest	CALLS PRIOR TO LIQUIDATION STILL UNPAID		Uncalled liabilities	Date when included in the list
						(a) Principal	(b) Interest		

.Form No. 52

AFFIDAVIT OF SERVICE OF NOTICE TO CONTRIBUTORIES OF FINAL SETTLEMENT OF THE LIST

1. I did on the__________day of____________19 , in the manner hereinafter mentioned serve a true copy of the notice now produced and shown to me and marked 'A' upon each of the said respective persons whose names, addresses and descriptions appear in the second and third columns of the said first schedule to the list of contributories of the said Company made out by the Official Liquidator of the Company on the day of__________and now on the file of proceedings of the said Company. In the tabular form of the foot of such copies respectively I inserted the number of list, name, address, description, in what character included, number of shares or extent of interest, the amount of calls made prior to liquidation and the amount of uncalled liabilities in respect of the shares (or interest) of the persons on whom such copy of the said notice was served, in the same words and figures as the same particulars are set forth in the said list of contributories.

2. I served the said respective copies of the said notice by putting such copies respectively, duly addressed to such persons respectively or their advocates or pleaders or attorneys according to their respective names and addresses appearing in the said list of contributories and with proper postage stamps affixed thereto as registered letters with acknowledgment due into the Post Office at ________________on the said______________day of _____________

Deponent.

Form No. 53

SUMMONS TO RECTIFY LIST OF CONTRIBUTORIES

(Title)

Let , the Official Liquidator of the above-named company, attend at on the day of 19 , on the hearing of the application on the part of (name of applicant, etc.), contributory of the above-named Company and the Liquidator's certificate finally settling the same may be varied by excluding the name of the applicant therefrom and that the Liquidator may be ordered to pay to the applicant the costs of this application out of the assets of the Company.

Deputy Registrar

Form No. 54

ORDER ON APPLICATION TO VARY LIST OF CONTRIBUTORIES

(Title)

Upon the application of W. N., by summons, dated the day of ________19 , for an order that the list of contributories of the Company and the Liquidator's certificate finally settling the same be varied by excluding the name of the applicant therefrom (or, as the case may be), and upon hearing , for the petitioner and for the Liquidator, and upon reading IT IS ORDERED that the list of contributories of the above-named Company and the Liquidator's certificate finally settling the same be varied by excluding the name of the said W.N. from the said list of contributories (or by including, as the case may be), or the Court does not think fit to make any order on the said application, except that the said W. N. do pay to A. B., the Liquidator of the said Company, his costs of this application.

(Costs payable to)

Given under my hand and the seal of the Court, this ________________day of___________19 .

Judge
or
Deputy Registrar

Form No. 55

ENDORSEMENT BY JUDGE ON SETTLEMENT OF THE LIST OF CONTRIBUTORIES

List settled as filed by the Official Liquidator (except that Nos. are expunged from the list and Nos. stand over for determination and subsequent endorsement thereon).

Dated

Judge

Form No. 56

PETITION TO MAKE A CALL

(Title)

The humble petition of , Official Liquidator of the above-named Company showeth as follows :

1. The above-named Company was, by an order of this Court, dated the day of 19 , ordered to be wound up by this Court (or, under the supervision of this Court, as the case may be).

2. By an order of this Court, dated the day of 19 , I was appointed Official Liquidator of the said Company.

3. On the day of 19 , the list of contributories was finally settled by me and endorsed by the Judge on day of 19 .

4. The amount of debts proved and admitted against the said Company and the estimated amount of costs, charges and expenses incidental to the winding up aggregate the sum of Rs. or thereabout.

5. Of the assets set forth in the statement of assets, I have realized the sum of Rs. of which I still have in hand the sum of Rs.____________, I estimate that the assets still remaining to be collected will realize approximately Rs. . There are no other assets belonging to the said Company except the amounts due from the contributories.

6. In the settled list of contributories of the said Company appear the names of persons in respect of shares.

7. For the purpose of satisfying the debts and liabilities of the Company and of paying the costs, charges and expenses of the winding up, I believe the sum of Rs. will be required in addition to the amount I now have in hand and the amount still to be collected by realization of the outstanding assets.

8. In order to provide the said sum of Rs. it is necessary to make a call upon the several persons who have been settled on the list of contributories and to provide for the contingency of some of such contributories partly or wholly failing to pay the amount of such call. I believe that for the purpose of realizing the said amount required, it is necessary that a call of Rs. per share be made.

Your petitioner, therefore, humbly prays that leave be given to make a call of Rs. per share on all the contributories of the said Company,

or

that such order may be made in the premises as may be fit and proper.

Official Liquidator

Verification.

I, the Official Liquidator of the above-named Company solemnly affirm that the statements contained in the foregoing petition are true to the best of my knowledge, information and belief.

Official Liquidator

Form No. 57 AFFIDAVIT OF LIQUIDATOR IN SUPPORT OF PROPOSAL FOR CALL

(Title)

I, of, &c., the Liquidator of the above-named Company, make oath and say as follows :—

1. I have in the Schedule now produced and shown to me, and marked with the letter "A", set forth a statement showing the amount due in respect of the debts proved and admitted against the said Company and the estimated amount of the costs, charges and expenses of, and incidental to, the winding up the affairs thereof, and which several amounts form in the aggregate the sum of Rs. or thereabouts.

2. I have also in the said Schedule set forth a statement of the assets in hand belonging to the said Company, amounting to the sum of Rs. and no more. There are no other assets belonging to the said Company except the amounts due from certain of the contributories of the said Company, and, to the best of my information and

belief, it will be impossible to realise in respect of the said amounts more than the sum of Rs. or thereabouts.

3. Persons have been settled by me on the list of contributories of the said Company in respect of the total number of shares.

4. For the purpose of satisfying the several debts and liabilities of the said Company and of paying the costs, charges and expenses of, and incidental to, the winding up the affairs thereof, I believe the sum of Rs. will be required in addition to the amount of the assets of the said Company mentioned in the said Schedule "A", and the said sum of Rs.

5. In order to provide the said sum of Rs. , it is necessary to make a call upon the several persons who have been settled on the list of contributories as before mentioned, and, having regard to the probability that some of such contributories will partly or wholly fail to pay the amount of such call, I believe that, for the purpose of realizing the amount required as before mentioned, it is necessary that a call of Rs. per share should be made.

Sworn, & c.

Form No. 58

SCHEDULE REFERRED TO IN THE PRECEDING FORM

In the matter of the limited, in liquidation and the Indian Companies Act, VII of 1913.

Schedule of Liabilities and Assets

Liabilities			Amount with the Bank		
	Rs.	N.P.		Rs.	N.P.
Amounts of debts and liabilities ..	..	..	Government treasury and in hand ..	..	..
Estimated amount of cost, charges, and expenses of, and incidental to, winding up of the company, including Liquidator's remuneration	..	..	Book debts and other property, nominal value ..	..	..
			Expected to realize ..	..	..
			Amount of probable deficiency ..	..	..
Total ..			Total ..		

Dated *Official Liquidator*

Form No. 59

SUMMONS FOR INTENDED CALL

(Title)

Let all parties concerned attend at on the day of 19 , at o'clock on the hearing of an application on the part of the Official Liquidator of the above-named Company that a call to the amount of Rs.________per share may be made on all the contributories (or, if upon any particular class, specify the same) of the said Company.

Given under my hand and the seal of the Court, this day of 19 .

Judge or

Deputy Registrar

To

Mr. C. D. of , a contributor
of the said company, proposed
to be included in the said call.

Form No. 60

ADVERTISEMENT OF INTENDED CALL

(Title)

Notice is hereby given that the______________day of________ 19 at o'clock at the Court House has been appointed to make a call on all the contributories of the said Company (or, as the case may be), and that the Official Liquidator of the said Company proposes that such call shall be for Rs.______________ per share. All persons interested are entitled to attend at such day, hour and place to offer objections to such call.

Given under my hand and the seal of the Court, this day of 19.

Judge or
Deputy Registrar

Form No. 61

GENERAL ORDER FOR CALL

(*Title*)

Upon the application, dated the day of 19 , of the Official Liquidator of the above-named Company and upon reading the order, dated the day of 19 , directing winding up of the Company the list of contributories of the said Company and the Official Liquidator's certificate of the final settlement of the same filed on the day of 19 , the affidavit of the said Official Liquidator filed on the day of 19 , and the exhibit marked 'A' referred to therein, and an affidavit of filed on the day of 19 , it is ordered that a call of Rs. _______per share be made on all the contributories of the said Company (or as the case may be).

And it is ordered that each such contributory do on or before the day of 19 , pay into the________Bank or into the Court to the account of the said Official Liquidator or to the said Official Liquidator at the amount which will be due from him or her in respect of such call.

In case of failure to pay the amount set forth above, payment order for the amount due together with interest at the rate of per cent per annum from the__________day of___________19 , until payment will be passed on the day of 19 , without any further notice.

Dated the day of 19 .

Judge.

Form No. 62

NOTICE TO BE SERVED WITH ORDER SANCTIONING A CALL

(Title)

The amount due from you in respect of the call made by the above order is that sum of Rs. , which sum is to be paid by you on or before the day of 19 , into the (Bank) or to the Court into my account or to the undersigned, Official

Liquidator of the said Company, at my office at _. You may pay the same in person or through a Banker or other agent but this notice and copy of the order attached must be produced at the (Bank) or the Court. Upon such payment the Bank or the Court will deliver to you a certificate of the payment; you must immediately upon such payment cause written notice of the payment and of the date thereof to be given to me as the Official Liquidator of the said Company at my above-named office.

In default of payment of the amount set forth above, payment order of the amount due together with interest at the rate of—per cent per annum from the day of 19 until payment will be passed by the Court on the day of 19 without any further notice.

Dated the day of 19 .

Official Liquidator

Note.---Interest will not be more than 4% P. A.

To

____

____

____

____

Form No. 63

AFFIDAVIT OF SERVICE OF ORDER FOR CALL ALONG WITH THE NOTICE FOR PAYMENT.

I ____________________________ solemnly affirm and say as follows :—

1. I did on____________________day of ____________________ 19 serve in the manner hereinafter mentioned on all the persons named in the Schedule marked "A" hereunto attached, with a copy of the Court's order, dated directing a call to be made from each of them along with a notice of payment issued to each of them by the Liquidator as per form marked "B" attached herewith except with the amounts shown as due from each of such persons as noted in the said Schedule marked "A".

2. That I caused the said respective copies of the said notice and order to be served by putting such copies

respectively duly addressed on such persons respectively and with the proper postage stamps affixed thereto as Registered Acknowledgement Due letters into the Post Office at_________on the said _____________________day of______________19 .

Official Liquidator
or
Clerk or Agent.

Form No. 64

APPLICATION OF OFFICIAL LIQUIDATOR FOR AN ORDER OF PAYMENT AGAINST CONTRIBUTORIES

(Title)

That by an order, dated___________day of _ _______________________________________at 19 , the contributories named in the Schedule annexed to the enclosed affidavit, dated______________day of _______________19 , they were ordered to pay the several sums of money set opposite their respective names on or before__________day of____________19 .

2. That notwithstanding the petitioner having served upon the said persons, with a copy of the said order along with a notice directing payment of the amount due from them as stated above, they have failed to pay the amounts due from each of them.

3. It is prayed that order may kindly be made against them for payment of the amount set opposite their respective names together with interest at_____________for the future period till the amount is paid.

The necessary affidavit is herewith attached.

Official Liquidator

Form No. 65

AFFIDAVIT IN SUPPORT OF APPLICATION FOR ORDER OF PAYMENT OF CALL DUE FROM CONTRIBUTORIES

(Title)

I___________________________Official Liquidator (Clerk or Attorney) of the above-named Company solemnly affirm and say :

1. That none of the contributories of the said Company whose names are set-forth in the Schedule hereunto annexed, marked A, have paid or caused to be paid the respective sums set opposite their respective names in the said Schedule and which sums are the respective amounts now due from them respectively in respect of the call made in pursuance of the order on that behalf dated ____________day of____________19 .

2. That the respective amounts or sums set opposite the names of such contributories respectively in such Schedule are the true amounts due and owing by such contributories respectively in respect of the said call.

Deponent.

Form No. 66

ORDER FOR PAYMENT OF CALL

(Title)

Upon the application of the Official Liquidator of the above-named Company and upon reading the order, dated the day of 19 , and his affidavit, dated the day of 19 , filed with the said application, and affidavit of ________________ _________________________________ dated the day of 19 , (re service, of notice) and hearing . It is ordered that the several persons named in the second column of the Schedule to this order, being respectively contributories of the said Company, pay to the Official

Liquidator of the said Company the amount mentioned against their respective names in column No. 8, which are due in respect of calls made on them and are still unpaid.

This order of payment may be enforced as a decree under the provision of sections 199 and 208 of the Indian Companies Act, VII of 1913, and if the contributories residing out of jurisdiction of this Court do not pay, application may be made to proper courts by the Official Liquidator for enforcement of order of payment with a copy of this order under section 201 of the above Act.

Dated this day of 19 .

Judge.

SCHEDULE "A"

1	2	3	4	5	6		7
Serial No.	No. on the list	Name and address	Description	In what character	AMOUNT OF CALL DUE		Prop na cos
					Principal	Interest	
					Rs. N.P.	Rs.N.P.	Rs. N

Form No. 67

LIQUIDATOR'S STATEMENT OF ACCOUNT
(GENERAL DIRECTIONS AS TO STATEMENTS)

(NAME OF COMPANY)

(1) Every statement must contain a detailed account of all the Liquidator's realizations and disbursements in respect of the Company. The statement of realizations should contain a record of all receipts derived from assets existing at the date of the winding up order of resolution and subsequently realized, including balance in bank, book debts, and calls collected, property sold, etc., and the account of disbursements should contain all payments for costs and charges, or to creditors or contributories. Where property has been realized, the gross proceeds of sale must be entered under realizations, and the necessary payments incidential to sales must be entered as disbursements. These accounts should not contain payments into the Company's liquidation account (except unclaimed dividends—see paragraph 4) or payments into or out of bank, or temporary investments by the Liquidator, or the proceeds of such investments when realized, which should be shown separately—

(a) by names of the bank pass book;

(b) by a separate detailed statement of moneys invested by the Liquidator, and investments realized.

Interest allowed or chargd by the Bank, commission, etc., and profit or loss upon the realization of temporary investment should, however, by inserted in the accounts of realizations or disbursements, as the case may be. Each receipt and payment must be entered in the account in such a manner as sufficiently to explain its nature. The receipts and payments must severally be added up at the foot of each sheet, and the totals carried forward from one account to another without any intermediate balance, so that the gross total shall represent the total amount received and paid by the Liquidator respectively.

2. When the Liquidator carried on a business, a trading account must be forwarded as a distinct account,

and the totals of receipts and payments on the trading account must alone be set out in the statement.

3. When dividends or instalments of compositions are paid to creditors, or a return of surplus assets is made to contributories, the total amount of each dividend, or instalment of composition, or return to contributories. actually paid, must be entered in the statement of disbursements as one sum; and the Liquidator must forward separate accounts showing in lists the amount of the claim of each creditor, and the amount of dividend or composition payable to each creditor and of surplus assets payable to each contributory distinguishing in each list the dividends or instalments of composition and shares of surplus assets actually paid and those remaining unclaimed.

4. When unclaimed dividend, instalments of composition, or return of surplus assets are paid into the Company's liquidation account, the total amount so paid in should be entered into the statement of disbursements as one sum .

5. Credit should not be taken in the statement of disbursements for any accounts in respect of the Liquidator's remuneration unless it has been duly allowed by resolution of the Company in general meeting, or by order of Court.

Liquidator's Statement of Account

(*Pursuant to section—of the Indian Companies Act, 1913).*

Name of Company.

Nature of proceedings (whether wound up by the Court, or under the supervision of the Court, or voluntarily).

Date of commencement of winding up.

Date to which statement is brought down.

Name and address of Liquidator.

This statement is required in duplicate.

LIQUIDATOR'S STATEMENT OF ACCOUNT PURSUANT TO SECTION OF THE INDIAN COMPANIES ACT, 1913

Date	REALIZATIONS		Amount
	Of whom received	Nature or assets realized	
		Brought forward .. *Carried over* ..	Rs. N.P.

Date	DISBURSEMENTS		Amount
	To whom paid	Name of disbursements	
		Brought forward .. *Carried forward* ..	Rs. N.P.

Note.- No balance should be shown on this account, but only the total realizations and disbursements which should be carried forward to the next account.

Analysis of Balance			*Analysis* *Rs. n..P.*		
Total realizations	..	..	..	..	..
Total disbursements	..	..	..	..	
	Balance			..	
The balance is made up as follows:- 1. Cash in hands of Liquidator 2. Total payments into Bank, including balance at date of commencement of winding up (as per bank book)				.. ..	
Total withdrawals from Bank			..	..	
Balance at Bank			..	..	

Analysis of Balance		*Analysis* *Rs. n.P.*
3. Amount in Company's liquidation Account. 4. Amounts invested by Liquidator less amounts realized from same	..	..
Balance		..
Total balance as shown above	..	..

(Note.—Full details of stocks purchased for investment and of realization thereof should be given in a separate statement).

Note.—The Liquidator should also state:—

I. The amount of the estimated assets and liabilities at the date of the commence ment of the winding up.

Assets (after deducting amounts charged to secured creditors and debenture-holders.)
Liabilities :-
Secured creditors, Debenture-holders. Unsecured creditors. Paid-up in cash. Issued as paid- up otherwise than for cash.

2. The total amount of the capital paid up at the date of the commencement of the winding up.
3. The general description and estimated value of outstanding assets (if any.)
4. The causes which delay the termination of the winding up.
5. The period within which the winding up may probably be completed.

Form No. 68

AFFIDAVIT VERIFYING STATEMENT OF LIQUIDATOR'S ACCOUNT

(Name of *Company)*

I , of , the Official Liquidator of the above-named Company, make oath and say;

If no receipts or payments, strike out the words in bracket.

That (the account hereunto annexed marked, contains a full and true account of any receipts and payments in the winding up of the above-named Company), from the day of 19 , to the day of 19, inclusive, and (that) I have not, nor has any other person by my order or for my use during such period, received or paid any moneys on account of the said Company (other than and except the items mentioned and specified in the said account).

I further say that the particulars given in the annexed Form marked , with respect to the proceedings in, and position of, the liquidation are true to the best of my knowledge and belief. Sworn, at

The affidavit is not required in duplicate, but it must in every case be accompanied by a statement in Form in duplicate.

Form No. 69 LIQUIDATOR'STRADING ACCOUNT

(Name of Company)

, the Liquidator of the above-named Company, in account with the estate.

This account is required in duplicate in addition to Form No.

Dr.		Receipts				Payments			Cr.
Date					Date				

Dated

Liquidator,

LIST OF DIVIDENDS OR COMPOSITION

(Name of Company)

I hereby certify that a dividend (or composition) of___________ in the Rupee was declared payable on and after the day of______________19 , and that the creditors whose names are set-forth below are entitled to the amounts set opposite their respective names and have been paid such amounts except in the cases specified as unclaimed.

Dated the , day of 19 .

Liquidator.

Name	Amount of proof		AMOUNT OF DIVIDEND OR (COMPOSITION)			
			Paid		Unclaimed	
	Rs.	N.P.	Rs.	N.P.	Rs.	N.P

This list is required in duplicate.

Form No.71

LIST OF AMOUNT PAID OR PAYABLE TO CONTRIBUTORIES

(Name of Company)

I hereby certify that a return of surplus assets was declared payable to contributories on and after the Day of 19 , at the rate of per share, and that the contributories whose names are set-forth below are entitled to the amounts set opposite their respective names and have been paid such amounts except in the cases specified as unclaimed.

Date the day of 19 .

Liquidator

Name	Number of shares	AMOUNT RETURNED ON SHARES			
		Paid		Uncl imed	
		Rs.	N.P.	Rs.	N.P.

This list is required in duplicate.

Form No. 72 AFFIDAVIT VERIFYING ACCOUNT OF UNCLAIMED AND UNDISTRIBUTED FUNDS.

I, , of , make oath and say that the particulars entered in the statement hereunto annexed marked A, are correct; and truly set-forth all moneys in my hands or under my control representing unclaimed or undisbursed assets of the above Company, and that the amount due by me to the Company's Liquidation Account in respect of unclaimed dividends and undistributed funds is Rs.

Sworn, etc.

Signature

Form No. 73 DIRECTION TO OPEN ACCOUNT AT ANY SCHEDULED BANK AS DEFINED IN CLAUSE (E) OF SECTION 2 OF THE RESERVE BANK OF INDIA ACT, 1934.

Heading

To

The Agent,

____

____

Sir,

An order, dated__________day of___________19 , having been made in the above matter by the Punjab High

Court at_________for winding up of the above-named Company by the Court (or under supervision of the Court), Mr. having by order, dated , been appointed to be Official Liquidator of the said Company, you are requested to open an account to be entitled. "The account of the Official Liquidator of Company", in your books pursuant to the Indian Companies Act, VII of 1913. All cheques drawn upon such account must be signed by the Official Liquidator whose signature is attached hereto and countersigned by_______________whose signature is also attached herewith (or_________dispensed with).

(Signature of Official Liquidator).

I am,
Your most obedient servant,

Deputy Registrar.

Form No. 74

SUMMONS FOR PERSONS TO ATTEND TO BE EXAMINED

(Title)

A.B. of &c. and R.P. of &c. are hereby severally summoned to attend at on day of 19 , at o'clock to be examined on the part of the Official Liquidator (or of W. D. of & C.) for the purpose of proceedings directed by the Hon'ble Mr. Justice (or by the Court) to be taken before me in the above matter (and the said A. B. is hereby required to bring with him and produce at the time and place aforesaid, a certain indenture (describe documents) and all other books, papers, deeds, writings and other documents in his custody or power in anywise relating to the above-named Company.

Dated the__________________day of______________19 .

Judge

This summons was taken out by Messrs. G. and D. of Advocate or Pleader for the Official Liquidator (or for the said W.D.).

Form No. 75

ORDER DIRECTING PUBLIC EXAMINATION

(Title)

Upon reading the application, dated ____________ together with affidavit of the Official Liquidator (or creditor or contributory) in the above matter, dated respectively, the day of 19 ,the day of 19 , and , it is ordered that the several persons whose names and addresses are set-forth in the schedule hereto do attend before the Court on a day and at a place to be named for the purpose, and be publicly examined as to the promotion or formation of the Company and as to their conduct of the business of the company, and as to the conduct and dealings as directors or officers of the Company.

The Schedule referred to

Name	Address	Connection with the Company

Form No. 76

ORDER APPOINTING A TIME FOR PUBLIC EXAMINATION.

(Title)

Upon the application of the Official Liquidator in the above matter, it is ordered that the public examination of , who, by the order of the Court, dated the day of 19 , was directed to attend before to be publicly examined, be held at on the day of 19 . And it is ordered that the above-named do attend at the place and time above-mentioned.

Note.—It is also ordered that if you, the above-named fail, without reasonable excuse to attend at the time and place a oresaid, you will be liable to be committed to prison without further notice

Dated this day of 19 .

Deputy Registrar.

Form No. 77

NOTICE TO ATTEND PUBLIC EXAMINATION

(Title)

WHEREAS by an order of this Court, made on the day of 19 , it was ordered that you, the under-mentioned , should attend before the Court on a day and a place to be named for the purpose, and be publicly examined as to the promotion or formation of the Company, and as to the conduct of the Company and as to your conduct and dealings as (a) AND WHEREAS THE day of 19 at o'clock in the noon before the sitting at has been appointed as the time and place for holding the said examination:

NOTICE is hereby given that you are required to attend at the said time and place, and, at any adjournments of the examination which may be ordered, and to bring with you and produce all books, papers, and writings and other documents in your custody in any way relating to the above-named Company.

AND TAKE NOTICE that, if you fail without reasonable excuse, to attend at said time and place, and at the adjournments of the said public examination which may be ordered, you will be liable to be committed to prison without further notice.

Dated this day of 19 .

Deputy Registrar, or
Official Liquidator.

Form No. 78

ADVERTISEMENT OF DAY, TIME AND PLACE FOR PUBLIC EXAMINATION OF DIRECTORS AND OFFICERS OF THE COMPANY

(Title)

To

All concerned.

Notice is hereby given that the day of 19 , at o'clock in the noon at has been appointed for holding the public examination of , Director, or Officer of the above-named Company, . All persons interested are entitled to attend at such day, hour and place and to take part in the examination of the aforesaid Director or Officer of the Company.

Dated this day of 19 .

Official Liquidator,
or
Deputy Registrar.

Form No. 79

WARRANT AGAINST PERSON WHO FAILS TO ATTEND EXAMINATION

(Title)

To

The Bailiff of this Court and to the Superintendent of the Jail, at________.

WHEREAS by evidence taken upon oath, it has been made to appear to the satisfaction of the Court that by order of the Court, dated the day of 19 , and directed to (name of person required to attend) he was directed TO ATTEND PERSONALLY AT AND BE EXAMINED BEFORE the Hon'ble which order was afterwards.

as hath been duly stated on oath, duly served upon the said (name of required to attend), has absconded and gone abroad (or quit his place of residence) with a view to avoiding examination under the Companies Act (VII of 1913).

AND WHEREAS the (name of the person required to attend) did without good cause fail to attend on the said day of 19 , for the purpose of being examined, according to the requirements of the said order of this court made on the day of 19 , directing him so to attend.

THESE ARE THEREFORE TO REQUIRE YOU the said Bailiff, to take the said (name of person required to attend) and to deliver him to the Superintendent to receive the said (name of person to attend) and to keep him safely in the said prison until such time as this Court may order.

Given under my hand and seal of the Punjab High Court at , this day of 19 .

Deputy Registrar.

Form No. 80

ADVERTISEMENT AS TO DECLARATION OF DIVIDEND

(Title)

Notice is hereby given that a first (or, as the case may be) dividend of in the rupee has been declared that the same will be payable on the day of 19 , *at* the office of the Official Liquidator (give full address).

Every person entitled to participate in this dividend will receive notice to that effect and no payment will be made except upon production of such notice.

Dated this day of 19 .

Official Liquidator,

Form No. 81

NOTICE OF DIVIDEND

(Title)

Dividend of in the Rupee

(Address)

(Date)

Notice is hereby given that a first (or as the case may be) dividend of in the rupee has been declared, and that the same will be payable at my office as above, on the day of 19 , or on any subesquent day between the hours of and

Upon applying for payment THIS NOTICE MUST BE PRODUCED, together with bills of exchange, promissory notes or other negotiable securities held by you. If you desire the dividend to be paid to some other person, you may sign and lodge with the Liquidator an authority in the prescribed Form No. . If you do not attend personally you must fill up and sign the adjoined Forms of Receipts and Authority.

Official Liquidator.

To

____

Note.—The receipt and authority should, in the case of a firm, be signed in the firm's name.

RECEIPT

(Title)

(Address)

(Date)

Received from the Official Liquidator the sum of Rs.___________, being the amount payable to me (us) in respect of the dividend of in the rupee.

Rs.___________

Payee's Signature.

AUTHORITY FOR DELIVERY

(*Title)*

(Address)

(Date)

Sir

, At my/our risk and expense please deliver to me/us by post or to the bearer the cheque or order for the dividend payable to me/us in this matter or send by money order the dividend payable to me/us in this matter.

To

Payee's Signature.

The Official Liquidator

Form No. 82

AUTHORITY TO LIQUIDATOR TO PAY DIVIDENDS TO ANOTHER PERSON

(*Title*)

(Address)

(Date)

To

The Official Liquidator.

SIR,

I (we) hereby authorise you to pay the dividend referred to in the enclosed notice (Notice, of dividend) to

of *(a* specimen of whose signature is given below) whose receipt shall be sufficient discharge.

Signature (b)

Witness

Address

Occupation

Specimen of signature of person appointed as above.

Witness

Address

Occupation.

Note.—(b) If signed by a firm, sign the Firm's name and add by H.B.A. partner in the said firm.

Form No. 83

SCHEDULE OR LIST OF CONTRIBUTORIES TO WHOM A RETURN IS TO BE PAID

(*Title*)

No. in settled list.	
Name of contributory as in settled list	
Address	
No. of shares held as per settled list	
Total called-up value	
Total paid-up value	
Arrears of calls at date of return	
Previous returns of capital appropriated by Liquidator for arrears of calls	
Amount of return payable at per share	
Net return payable	
Date and particulars of transfer of interest or variation in list	
REMARKS	

Form No. 84

NOTICE OF RETURN TO CONTRIBUTORIES

(*Title*)

Return of Rs. per share.

(*Address*)

(*Date*)

NOTICE is hereby given that a first (or as the case may be) return of Rs. per share has been declared, and that the same will be payable at my office, as above on the day of 19, or on any subsequent day between the hours of M. and M.

Upon applying for payment THIS NOTICE MUST BE PRODUCED together with share certificate (s). If you do not attend personally you must forward the share certificate and fill up and sign the subjoined Forms of Receipt and Authority.

Official Liquidator.

NOTE—The receipt should be signed by the contributory personally or in tLe case of joint contributories, by each.

RECEIPT

(Title)

(Address)

(Date)

No.

Received from the Official Liquidator the sum of Rupees ____________being the amount payable to me (us) in respect of the return of per share held by me (us).

Signature(s).

Rs. ____________________

AUTHORITY FOR DELIVERY

(Address)

(*Date*)

SIR,

Please deliver to bearer (or me/us by post, at my/our risk) the return of Rs. payable to me/us.

Signature(s).

To

The Official Liquidator.

Form No. 85

AFFIDAVIT OF LIQUIDATOR AS TO PROPOSED COMPROMISE WITH A CONTRIBUTORY

(Title)

I, , of , the Official Liquidator of the above-named Company make oath (or solemnly affirm) and say :

1. That____________________________________ has been settled on the list of contributories of the above-named Company in respect of_________shares therein and by an order inthese matters dated________a call of Rs.__________per share has been made on him in respect thereof amounting to Rs. __________________.

2. That the said______________________________ has applied to me to accept a compromise of Rs.to be paid as follows in full discharge of his liability in respect of the said sum of Rs. ______________

3. I have investigated the affairs of the said____________ who has made an affidavit to his means filed the___________day of_______19 , and as a result of such investigation it appears that the said____________cannot pay the said sum of Rs.________and I believe I shall not be able to obtain from his estate as much as I shall by the said compromise. I believe it will be beneficial to the said Company that the said compromise shall be accepted.

Sworn (or solemnly affirmed).

Official *Liquidator.*

Form No. 86

NOTICE TO ALL CREDTTORS AND SHAREHOLDERS

In the matter of the winding up Company, Ltd.

(In Liquidation)

To

(1) All Creditors.

(2) All Share-holders.

NOTICE is hereby given that by an order, dated

day of 19 , the Hon'ble has directed meeting of creditors and contributories of the above-named Company for the purpose of considering and if thought fit, approving of, with or without modifications the scheme of arrangement

(1) Which has been circulated and of which copies may be obtained on application from the under-mentioned Official Liquidators.

____
____
____

(2) a copy whereof is enclosed herewith.

The meetings will be held on day of 19 , at at o'clock for creditors and at o'clock the same day for contributories, at respective place and time; the creditors and contributories of the above-named Company are requested to attend or may do so by executing and depositing with the Official Liquidator at not later than 48 hours the time appointed for the meetings, i.e., by (day) the form of proxy.

(1) Which has been approved of and circulated.

(2) Sent herewith.

provided that such proxy may be held only by persons who are themselves entitled to vote at the meeting also in their own right.

The Court has appointed Mr.________________________and failing him Mr.____________________to act as Chairman of the creditors' meeting and Mr._______________________failing him Mr.______________________to act as Chairman of the contributories' meeting.

The above scheme will be subject to the approval of the Court.

Dated this day of 19 .

Official Liquidator.

Form No. 87

APPEARANCE BOOK

(Title)

Date when appearance entered	Party's name	Whether creditor or contributory	If he appears in person his address for service	If he appears by an advocate or pleader his advocate's or pleader's name	Advocate's or pleader's address	Amount of debt or number of shares.

Form No. 88

IN THE PUNJAB HIGH COURT AT __________

LIQUIDATION CASE No.

Re :

versus

Application under section 186 of the Indian Companies Act, VII of 1913, for recovery of Rs. __________ with interest and costs.

Petition presented on_________________________.

Order

Upon the application of the Official Liquidator of the above-named company and upon hearing for the petitioner and___________for the respondent, it is ordered under section 186 of the Act, that the above-named _______________ do pay to the Official Liquidator of the said Company the sum of Rs.______________due from him________on the basis of a pronote for Rs. dated ________________with costs and Rs. _________as interest and further interest at _____________ p.a. from______till the date of realization on the balance remaining unpaid from time to time.

This payment order may be enforced as a decree under the provision of section 199, 200 and 201 of the Act.

Dated :

Judge

Form No. 89

CERTIFICATE OF THE COMPANY BEING COMPLETELY WOUND UP AND OF THE OFFICIAL LIQUIDATOR HAVING PASSED HIS FINAL ACCOUNT

(Title)

I hereby certify that R. P. H., the Official Liquidator of the above named Company, has passed his final account as such Official Liquidator, and that the balance of Rs.________thereby certified to be due to (or from) said Official Liquidator, has been paid in the manner directed by the order, dated the________day of 19 , and that the affairs of the Company have been completely wound up.

Dated this day of 19 .

Judge

Form No. 90

ORDER TO DISSOLVE THE COMPANY

(Title)

Upon the application of the Official Liauidator of the above named Company, and upon reading an order, dated the________day of___________19 , and the certificate, dated the __________ _____________________day of 19 , whereby it appears that the affairs of the said Company have been completely wound up, and that the balance of Rs.___________due from (or to) the Official Liquidator has been paid in the manner directed by the said order it is ordered that the said __________ ______Company be dissolved as from this day of 19 , and that the recognizance, dated the day of 19 , entered into by the said Official Liquidator, together with W. B. and T. P. his sureties be vacated.

Judg e

Form No. 91

PETITION FOR REDUCTION OF CAPITAL

(Title)

The humble petition of Limited and Reduced.

Showeth-

1. Your petitioner the above-named Company (hereinafter called "the company") was incorporated on the day of 19 , under the provisions of the Indian Companies Act, as a company limited by shares.

2. The registered office of the Company is situated at (state full address).

3. The objects of the Company are as follows : —(state principal objects according to Memorandum of Association) and other objects set forth in the Memorandum of Association thereof.

4. The nominal capital of the Company is Rs._______ divided into_________of which have been issued and are fully paid up or credited as fully paid up.

5. Shortly after its incorporation, the Company commenced to carry on and it has since been and still is carrying on business.

6. By article (s)_______________of the Articles of Association of the Company, it is provided that the Company may (set out Article or Articles of Association authorising a reduction of capital.

7. (Set out the reasons for reduction stating all material facts and circumstances).

8. Under the provisions of section 55 of the Indian Companies Act, 1913, and in pursuance of the powers in that behalf contained in the said Articles of Association the Company by special Resolution of its shareholders duly passed at Extraordinary General Meeting duly convened and held on the day of 19 , resolved:—

(Set out the special resolution for reduction of capital).

9. *The reduction of capital does not involve either diminutation of liability in respect of unpaid capital or the payment to any share holder of any paid-up capital and in consequence no creditor is entitled to object to the reduction under the provisions of section 58 of the said Act.

*Omit if creditors are entitled to object to the reduction.

10. (If the petition asks that the use of the words "and reduced" be dispensed with, here state reasons).

11. The form of minute proposed to be registered under the provisions of section 61 of the said Act is as follows —

(Set out proposed Minute of Reduction).

Your petitioner, therefore, humbly pray-

†(1) That the reduction of capital to be effected by the Special Resolution set out in paragraph 8 hereof be confirmed and that the minute set forth in paragraph 11 hereof be approved by the Court.

Omit or alter pragraphs(2) and (3) accordng to circumstamces

(2) That the addition of the words "and reduce" to the Company's name be dispensed with.

(3) That the obtaining of the Certificate provided for by Rule 180 of the Rules of this Hon'ble Court may be

dispensed with and that in accordance with Rule 169 of the said Rules a day may be fixed for the hearing of this petition and directions given as to the advertisements to be published.

(4) That such other order may be made/passed in the premises as the Court shall think fit.

Petitioners.

VERIFICATION

I , of , make oath (or solemnly affirm) and say as follows :—

(1) That I am a (director) of the petitioner Company and as such I am fully acquainted with the affairs of the said Company.

(2) That the facts stated in the foregoing petition are true to my knowledge.

Sworn (or solemnly affirmed), etc.

Form No. 92

ADVERTISEMENT OF PRESENTATION OF PETITION

(Title)

Notice is hereby given that a petition has been presented to the above-named Court for an order confirming the reduction of the share capital of the above-named Company from Rs.______to Rs.resolved on by the special resolution passed at extraordinary general meeting of the said Company, held, on the day of 19 .

The said petition is directed to be heard by the said Court at the Court House, at on the day of 19 .

Attorney(s) for the Company.

Form No. 93

ORDER WHERE CREDITORS ARE ENTITLED TO OBJECT

(Title)

Upon the application by summons, dated 19 of Limited, and reduced, and upon hearing for the Company and upon reading the petition presented to this Court on the day of 19 , and the affidavit in verification thereof, it is ordered that an enquiry be made as to what are the debts, claims and liabilities of or affecting the said Company as on the day of 19 , and it is further ordered that a list of creditors of the said Company be made out as at the said day of 19 , and that such list shall (not) disclose the amounts due to the creditors respectively and that such list be filed by the said Company in this Court on or before the day of 19 , and that a copy of such lists shall be kept at the registered office of the said Company and at the office of its attorney; and that notice of the said application shall be sent to each creditor on or before the day of 19 , and that such notice in the cases of those creditors whose addresses are not within British India shall be given by (registered post or advertisement) and that such notices in the cases of those creditors whose addresses are not known to the said Company shall be given by advertisements to be published in [newspaper (s)] ; and that any creditor whose name does not appear in such list or who claims to be a creditor for a larger amount than that stated in the said list shall give notice thereof in manner prescribed in Rule 174, and send his name and address and particulars of his debt or claim and the name and address of his attorney if any to the attorney of the said Company within 14 days (or such period as the judge may direct) from the date of the said notice; and that notice of the filing of the said list shall be advertised by the said Company in (newspaper) (or as the judge may direct); and that the said Company shall on or before the day of 19 , file an affidavit verifying such list of creditors, if any as may have given such notice (or, made such claim as aforesaid) distinguishing which, if any, of such claims are wholly or as to any and what part thereof admitted by the said Company and which, if any, of such claims are wholly or at/to any and what part thereof disputed by the said Company.

Dated

Judge

Form No. 94

AFFIDAVIT IN VERIFICATION ON
LIST OF CREDITORS

(Title)

I, , of
make oath (or solemnly affirm) and say as follows :—

1. I am a (director) of the Company above-named, and duly authorised to make this affidavit.

2. The schedule hereto annexed is a list containing the names of the creditors of, and persons having claims upon the said Company on the (a) day of 19 , together with their respective addresses, and stating the nature and amount of the debts or claims due to or had by them respectively and such list is, to the best of my knowledge, information and belief, a complete, true and accurate list of such creditors and persons, and in the cases of debts payable on a contingency or not ascertained, and of claims admissible to proof in a winding up of the said Company, the values thereof as stated in such list, are, in my belief, just estimates of the values of such debts and claims, respectively.

3. To the best of my knowledge, information and belief, there was not, at the date aforesaid, any debt, claim or liability which, if such date were the commencement of the winding up of the said company, would be admissible in proof against the said Company other than and except the debts and claims set forth in the said list. I make this statement upon facts within my knowledge as

such (director) of the said Company, and upon information derived by me from my investigation of the affairs and the books, documents and papers of the said Company.

Sworn (solemnly affirmed).

SCHEDULE

(1) Ascertained Debts and Liquidated Claims.

Names, addresses and descriptions of the creditors of claimants	Nature of debt or claim	Amount of debt or claim
1	2	3

(2) (a) Debts payable on a contingency, or not ascertained.

(b) Claims not liquidated, but admissible to proof in a winding up of the Company.

Names, addresses and descriptions of the creditors of claimants	Nature of debt or claim	Amount of debt or claim
1	2	3

(Signature of deponent)

Form No. 95

NOTICE TO CREDITORS

(Title)

Notice is hereby given that a petition has been presented to the above-named Court praying for an order confirming the reduction of the share capital of named Company from Rs. to Rs. resolved on by the special resolution passed and confirmed at extraordinary general meeting of the said company held respectively, on the day of 19 and the day of 19 .

Take notice that your name has been entered in the list of creditors of the said Company as a creditor (or, as claiming to be a creditor) of the said Company for the sum (or, for the estimated sum) of Rs. in respect of (here state nature of debts or claims as in list of creditors).

If you claim to be a creditor for a large amount than the said sum, you must within 14 days (or, as the Judge may allow) from the date of this notice send to the undersigned particulars of your debt or claim, together with your name and address, as also the name and address of your attorney, if any.

Dated 19 . *Attorney for the Company.*

Form No. 96

ADVERTISEMENT OF LIST OF CREDITORS

(Title)

Notice is hereby given that a list of the creditors of the above-named Company has been filed in Court.

Any person may, upon payment of the sum of Re. 1, inspect a copy of such list during the usual hours of business, either at the registered office of the above-named Company, at No. or at the office of the undersigned.

Dated *Attorney for the* Company.

Form No. 97

AFFIDAVIT IN VERIFICATION OF LIST OF CREDITORS

(Title)

We, of and of make oath (or, solemnly affirm) and say as follows :—

1. I, the said , make oath (or solemnly affirm) and say as follows :—

I am the attorney (or a partner, or an assistant of Messrs , the attorneys) of the Company above-named. The annexure hereto marked "A" is a list containing the names and addresses of all persons who have sent in particulars of their debts or claims in pursuance of notice given in accordance with Rule 174 and the amounts of such debts or claims (or, no creditor has sent in particulars of any debts or claim in pursuance of notice given in accordance with Rule 174).

2. And I, the said , make oath (or solemnly affirm) and say as follows :—

I am a (director) of the Company above-named. Notice complying in all respects with the requirements of Rule 174 has been duly given to all the creditors whose names are entered in the list of creditors of the Company above-named filed in Court.

In the cases of notices sent by prepaid letter post, such notices were despatched by posting the same at the post office at on the day of 19 , before the hour of .

In the cases of notices directed by the Court to be given otherwise than by sending the same by post, such notices were given in the manner directed, namely :—

(Here state particulars. If by advertisement, state names of publications and dates thereof).

In the said annexure "A", I have truly stated the particulars required by Rule 177 in respect of each of the debts or claims therein mentioned.

Sworn (or solemnly affirmed), etc.

Form No. 98

NOTICE TO CREDITORS TO PROVE DEBT

(*Title*)

Notice to Place and date.

Sir
,

You are hereby required to prove (such part of) the debt claimed by you against the above-named Company (as is not admitted by the Company) by filing your affidavit and giving notice thereof to of the attorney of the Company on or before the day of 19 , the day appointed for adjudication and you are to attend in person or by your attorney at the Court house, Chandigarh on the said date being the date appointed for hearing and adjudicating upon the claim and to produce any documents or securities relating thereto.

In default of compliance with the above directions, you will be precluded from objecting to the proposed reduction of the capital of the Company (or, in all proceedings relative to the proposed reduction of the capital of the Company be treated as a creditor for such amount only as is set against your name in the list of creditors).

Attorney for the said Company.

Form No. 99

AFFIDAVIT OF CREDITOR IN PROOF OF DEBT

(Title)

I, of make oath (or solemnly affirm) and say as follows :—

I. (If not made by the creditor personally, the deponent must state his authority for making the affidavit and his means of knowledge).

2. The above-named Company is justly and truly indebted to me (or the said) in the sum of Rs. for, etc. (describe shortly the nature of the debt and exhibit any security for it and in the case of a trade debt, exhibit vouchers).

3. I have not, nor has, nor have, any person or persons by my order or to my knowledge or belief for my use received the said sum of Rs. or any part thereof or any security or satisfaction for the same or any part thereof (except the said security hereinbefore referred to)*.

*This paragraph to be adapted in the case of a person other than the creditor being the deponent..

Sworn (or solemnly affirmed). etc.

Form No. 100

NOTICE OF THE DAY APPOINTED TO HEAR THE PETITION FOR REDUCTION OF CAPITAL

(Title)

Notice is hereby given that a petition presented to the said Court on the day of 19 , for an order confirming the reduction of the capital of the

Company from Rs.   to Rs.   is directed to be heard by the said Court on the   day of 19   .

Attorney for the Company.

(High Court Notification No. 55-R, dated the 14th March, 1946).

PART B.—THE BANKING COMPANIES (LIQUIDIATION) PUNJAB & DELHI RULES, 1957.

In exercise of the powers conferred by section 45-N (2) and secton 45-U of the Banking Companies Act, 1949 (Act X of 1949), as amended, and in supersession of the Banking Companies, Punjab & Delhi Rules, 1952, as published in Notification No. 156-XVI-A-101/Liqn. dated the 31st July, 1952, the Punjab High Court hereby makes the following rules :—

Short title.

1. These rules may be called "The Banking Companies (Liquidation) Punjab and Delhi Rules, 1957".

GENERAL

Definition.

2. In these rules, unless there is anything repugnant in the subject or context :—

(i) 'Act' means the Banking Companies Act, 1949 (X of 1949) as amended from time to time.

(ii) 'Company' means a company to which the provisions of the Act apply.

(iii) 'Form' means a form given in the Appendix to these rules.

(iv) References to Indian Companies Act, 1913 in these rules shall be deemed to be references to corresponding provisions of the Indian Companies Act, 1956, in relation to banking companies wound up on or after the 1st of April, 1956.

Presentation of Petition.

3. Applications under Part III or Part III-A of the Act in respect of a Company shall be presented by litigants or their Advocates by depositing them in the petition box of the court outside the room of the Deputy Registrar.

General Heading.

4. Applications under Part III or Part III-A of the Act shall be instituted in the matter of the Act and in the matter of the Banking Company and where necessary in

the matter of the Act under which the Banking Company has been ordered to be wound up as follows:—

The Punjab High Court ___________

In the matter of the Banking Companies Act X of the 1949 (and in the matter of __________Act) and of the Limited ________________________________

Petition under Section (s) _________________

___________________ Petitioner.

versus

___________________Respondents.

Drafting of Petition.

5. The petition shall contain a statement of facts relied on and the nature of the relief asked for, and shall be signed and verified in the same manner as a plaint under the Code of Civil Procedure and shall be supported by an affidavit.

Notice of Petition.

6. Where a notice is directed to be given to any party, it shall be served together with a copy of the petition and the petition shall not be heard until fourteen days after the service of the notice, unless the Court otherwise directs.

General duties and Powers of the Special Officer.

7. Without prejudice to the generality of the powers of the Court under section 37(3) of the Act;

(a) A Special Officer appointed under section 37(3) of the Act shall furnish security in such amount as may be ordered by the Court.

(b) He shall generally have all the powers and shall take all the steps to do all the things necessary or expedient to protect the rights and interest of all the creditors and shareholders of the Banking Company and to conserve and ensure the proper disposition according to law of the assets of the Banking Company.

(c) The Special Officer may be empowered to represent the Banking Company in proceedings before any Court, Tribunal or Public Officer.

(d) The Special Officer shall, where his duties so require, maintain proper accounts.

(e) The Special Officer may apply to the Court for such directions as he may deem necessary.

(f) The Special Officer shall be paid such remuneration as may be determined by the Court, which shall be paid, unless the Court otherwise directs, from the assets of the Banking Company.

(g) The Special Officer shall continue to supervise the affairs of the Banking Company until he is removed from office, or the term of his appointment terminates, or until the Banking Company resumes business or until a Liquidator is duly appointed to wind up the business of the Banking Company.

(h) An order appointing the Special Officer shall be in Form No. 1.

Inspection of the Report of the Reserve Bank of India.

8. No person, other than the parties to the proceedings and the Official Liquidator, shall be entitled to inspection of any report made by the Reserve Bank of India or be entitled to receive a copy thereof, without an order of the Court.

Applications in winding up to be by petition.

9. Applications for the determination of all questions of priorities and all other questions whatsoever, whether of law or fact, which may relate to or arise in the course of the winding up of a Banking Company, shall be made by petition. The petition shall contain a statement of facts relied on and the nature of the relief asked for. The petition shall be signed and verified in the same manner as a plaint and shall be supported by an affidavit.

Interm Orders.

10. The Court on hearing the application may pass Interm Orders as it deems proper.

Affidavit in Answer.

11. An answer to the petition under the Act shall be made by filing an affidavit and a copy thereof shall be furnished to the petitioner or his Advocate at least two clear days before the returnable date of the notice.

Directions for the hearing of the petition.

12. (a) On the date fixed for the hearing of the petition, the Court may proceed to hear the petition or give such directions as it may think proper as to discovery and inspection, examination of witness in Court or in Chambers, taking of evidence by affidavit or otherwise and generally for the speedy determination of the petition.

(b) An order for the winding up of a company under the Act shall be in Form No. 2.

Transfer of suits and proceedings to the High Court.

13. When the Official Liquidator submits to the Court a report under section 45-C(2) of the Act, he shall apply to the Judge for the time being dealing with the proceedings for the winding up of the Company or to such other Judge as the Chief Justice may direct, for directions as to the parties to whom notice may be given and the date and time for holding an inquiry whether or not the suits and proceedings mentioned in the report should be transferred to the High Court. The notice shall contain particulars of the suit or proceeding in which the party may be concerned and require him to appear and show cause why it should not be transferred to the High Court. The notice shall be served fourteen days before the date appointed for holding the inquiry.

Affidavit in reply.

14. Any party desiring to oppose the transfer of the suit or proceeding to the High Court shall file an affidavit and furnish a copy thereof to the Official Liquidator or his advocate at least two clear days before returnable date of the notice.

When proceedings not trans-ferred, Court may request expedition of the same.

15. If any proceeding in any Court is not transferred to the High Court under Section 45-C(3) the Judge for the time being dealing with the proceedings for the winding up of the Banking Company or such other Judge as the Chief Justice may direct may issue directions to the Deputy Registrar to write a letter of request to the Court in which the proceeding is pending, requesting that the proceeding may be disposed of as expeditiously as possible.

16 (1). When the Official Liquidator files in the Court a list of debtors under Section 45-D(2) of the Act, he shall obtain an appointment from the Judge for the time being dealing with the proceedings for the winding up of the Banking Company or from such other Judge as the Chief Justice may direct to settle the same and shall give notice in writing of such appointment to every person mentioned in such list. The notice shall contain such of the particulars mentioned in the list of debtors as are applicable to such person. In case any variation or addition to such list is made by the Official Liquidator, a similar notice in writing shall be given to every person to whom such variation or addition applies. All such notices shall be served four weeks before the date appointed to settle such list, variation or addition. List of Debtors.

(2) The Official Liquidator shall file in Court a sufficient number of copies of the list of Debtors to enable the Court to supply all Debtors and the parties with a copy each of the list. In addition to the above two copies for the use of the court shall also be filed.

17. (a) Service of notice upon the debtors shall be effected by sending the notice through post by a Registered letter or if the Court so directs under certificate of posting. The notice shall be addressed to the party to his last known address or place of abode and such notice shall be considered as served at the time the same ought to be delivered in due course of delivery by the Post Office and notwithstanding the same may be returned by the Post Office. Service of Notice.

(b) If a debtor desires to show cause against the inclusion of his name in the list of debtors he shall file an affidavit and furnish a copy thereof to the Official Liquidator or his attorney or advocate at least seven clear days before the day appointed for the settlement of the list.

18. On the date fixed for settlement of the list of debtors, the Court may settle the list or such part thereof as it may think proper. If the Court is of opinion that it is not immediately possible to adjudicate upon any particular debt mentioned in the list, it may give such directions as it may think proper as to discovery and Statement of the list of Debtors.

inspection, examination of witness in Court or in Chambers, taking of evidence by affidavit or otherwise and generally for the speedy adjudication of the debt. The Court may in a special case refer the Official Liquidator to a regular suit.

Official Liquidator to Report, if he contest claims of depositors.

19. If the Official Liquidator desires to contest a claim shown the books of the company as due to a depositor on the ground that there is reason for doubting the correctness of any particular entry in the books, he shall make a report to the Judge for the time being dealing with the proceedings for the winding up of the Banking Company or to such other Judge as the Chief Justice may direct stating his reason for doubting the correctness of such entry; and if, upon such report, the Court is satisfied that there is *prima* facie reason for doubting the correctness of the entry, the Judge may cause notice to be given to the depositor concerned to come in and prove his claim.

Register of suits in winding up matters.

20. Suits in respect of claims made by or against any Company in Liquidation including claims by or against any of its Branches in India which are filed in the High Court or transferred to it under the Act shall be entered in a separate list to be maintained by the Deputy Registrar and shall be treated as expedited suits. If such suits have been filed before the date of the order for winding up, the Official Liquidator shall furnish to the Deputy Registrar a list of such suits.

Hearing of suits and matters.

21. All suits referred to in the preceding rule and all matters and proceedings connected with the suits shall be heard by the Judge for the time being dealing with the proceedings for the winding up of the Banking Company or by such other Judge as the Chief Justice may direct.

Procedure in such suits.

22. (a) In all such suits the following procedure shall be followed :—

Within ten days of the service of the summons or such longer period as the Court may direct on the application of the plaintiff in that behalf, the plaintiff shall take out a summons for directions and the court shall give such directions as it may think proper as to filing the written statement and counter-claim, if any, or points of defence, discovery, inspection, examination of witness in Court or in chambers, taking of evidence by affidavit or otherwise and generally for the speedy determination of the suit.

(b) As soon as practicable after the list of debtors has been settled and signed by the Judge under sub--section (4) of Section 45-D of the Act, a certificate in Form No. 3 shall issue under the seal of the Court and signed by the Deputy Registrar in terms of sub-section (C) of section 45-D of the Act in respect of each debtor placed on the list setting out the relevant particulars.

Application for inspection of records.

23. The Reserve Bank of India may apply to the Judge for the time being dealing with the proceedings for winding up of a Company or to such other Judge as the Chief Justice may direct, for permission to inspect the records of the Company or of the High Court in the matter of the Company, and such permission may be granted by the Judge in his discretion.

Recovery of dues as arreas of Revenue.

24. When the Court grants leave under section Recoveryof 45-T(3) of the Act for recovery of any amount found due to the Company, the Official Liquidator may apply to the proper Revenue Authorities to recover the said amount as an arrear of land revenue.

Supervision of carrying out of compromise or arrangement.

25. Where an order under section 153 of the Indian carrying out of Companies Act, 1913 (Act VII of 1913), sanctioning a compromise or arrangement in respect of a Banking Company is passed, the Court may direct the Official Liquidator or any other person to supervise the carrying out of the compromise or arrangement and to make a report to the Court in regard thereto.

CIVIL APPEAL

Appeal to the High Court to be heard by Division Bench.

26. (a) Subject to the provisions of section 45-N (1) of the Act, an appeal shall lie from an order or decision of a Judge in a civil proceeding under the Act to a Division Bench of the High Court.

(b) Rules relating to appeals contained in the Punjab High Court Rules and Orders, Volume V, shall apply *mutatis mutandis* to such appeals.

Period for filing appeals.

27. The appeal shall be filed within 20 days from the date of the decree or order appealed from.

CRIMINAL COMPLAINTS AND PUBLIC EXAMINATION

28. (1) As soon as practicable after the order of winding up is made or within such time as the Court may grant, the Official Liquidator shall file into court the report required by sub-section (1) of section 45-G of the Act, for directions.

(2) After hearing the Official Liquidator, the court may direct notice to issue to person concerned to show cause why they shouod not be publicly examined.

(3) After hearing all the parties on the day fixed in the notice, or on such other day to which the matter may be adjourned, the court may, if it desires to direct the public examination of any one or more person(s), fix a date for such examination.

(4) The Official Liquidator shall notifiy the creditors and contributories of the company of the original date fixed under the proceeding sub-rule by advertisement in a newspaper or in such other manner as the court may direct.

Presentation of complaints and issue of process.

29. Proceedings under section 45-J of the Act shall commence with a complaint being presented by the Official Liquidator to such Judge as the Chief Justice may direct. On presentation of the complaint the Judge may issue a summons or a bailable or non-bailable warrant against the accused and shall fix a date for the trial, or may, if he thinks fir postpone the issue of process for compelling the attendance of the person complained against and may direct and inquiry or investigation to be made by the Inspector-General of Police or by such other person as he thinks fit, or may dismiss the complaint as he may in his discretion think fit.

Process in Criminal Cases.

30. All complaints shall be filed with the Deputy Registrar and all process shall issue from the Court.

31. "Offences punishable under Indian Companies Act, 1913 (Act 7 of 1913), or under the Banking Companies manly, Act, 1949 (Act X of 1949), with imprisonment for a term which does not exceed three years and or with fine which does not exceed one thousand rupees may be tried in a summary way.

What offences to be tried summarily.

An offence triable under section 45-J(2) of the Act jointly with the offences mentioned in this rule may also be tried summarily provided that it is punishable with imprisonment for a term which does not exceed three years or with fine which does not exceed one thousand rupees."

32. Where an offence triable under section 45-J(1) is tried summarily, the procedure provided in the Code of Criminal Procedure for the trial of Summons cases shall, so far as it is not inconsistent with the provision of the Act, be applicable. Where, however the offence to be tried summarily under section 45-J(1) is tried jointly with an offence under section 45-J (2), the procedure provided in the Code of Criminal Procedure for the trial of Warrant cases shall be applicable provided that it shall not be necessary to adjourn the case under section 256(1) of the Code of Criminal Procedure before requiring the accused to enter upon his defence or inquiring of him whether he wishes to further cross-examine any witness whose evidence has been taken.

Procedure in Summary trials.

33. Where the offences triable under section 45-J are not tried summarily, the procedure provided in the Code of Criminal Procedure for the trial of Warrant cases shall, so far as it is not inconsistent with the provisions of the Act, be applicable.

Procedure in Non-Summary trials.

34. The Court may at any time grant bail to the accused on such terms as it thinks proper.

Bail.

35. Any person against whom a complaint is filed by the Official Liquidator under the Act shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial.

Accused person to be competent witness.

Provided that ....

(a) he shall be called a examined as witness except with his consent;

(b) his failure to give evidence shall not be made the subject of any comment by the prosecution or give rise to any presumption against himself or any person charged together with him at the same trial.

(c) he shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of any offence other than the offence with which he is charged, or is of bad character unless-

(i) the proof that he has committed or been convicted of such offence is admissible in evidence to show that he is guilty of the offence with which he is charged, or

(ii) he has personally or by his Advocate asked questions of any witness for the prosecution with a view to establish his own good character, or has given evidence of his good character or the nature or conduct of the defence is such as to involve imputations on character of the prosecutor or of any witness for the prosecution, or

(iii) he has given evidence against any other person charged with the same offence.

Compounding offences.

36. All offences triable under Part III-A of the Act may be compounded with the leave of the Court.

CRIMINAL APPEALS

Appeal against conviction.

37. (a) Any person convicted on a trial held by the High Court in the exercise of its jurisdiction under section 45-J of the Act may appeal to the High Court, where he has been sentenced to imprisonment exceeding six months of fine exceeding five hundred rupees.

(b) The official Liquidator may appeal to the High Court against any order of acquittal on any grounds which involves a matter of law only.

Period of limitation.

38. An appeal under the last preceding rule shall be filed within 30 days from the date of the order appealed from.

39. Appeals shall be filed with the Deputy Registrar of the Court.

Appeal to be filed with the Deputy Registrar.

40. The memorandum of appeal shall be made in the form of a petition giving the grounds of objection numbered consecutively. It shall also show that the appeal is within time, and shall be accompanied by a certified copy of the Judgment or order of the Court.

Memorandum of Appeal

41. On presentation of an appeal, the date of such presentation shall be marked thereon, and it shall be accepted, if within time, and placed on a register of appeals to be kept for the purpose. When an appeal appears to the Deputy Registrar to be beyond time, it shall be returned to the party or his advocate, unless the party or his advocate applies for it to be placed before the Court for orders. An application for excusing the delay in presenting the appeal may be made to the Deputy Registrar within a fortnight of the date of such return, and such application shall be placed before the Court for orders.

Procedure in Appeal

42. Applications referred to in the preceding rule, together with the memorandum of appeal in question and appeals which have been accepted by the Deputy Registrar being within time shall be placed for admission before a Division Bench constituted by the Chief Justice and composed of not Less than 2 Judges, being Judges other than the Judge by whom the original trial was held.

Admission of appeal

43. (a) Applications for bail shall ordinarily be heard by the Bench referred to in the preceding rule.

Application for bail in appeals

(b) Applications mentioned in sub-rule (a) above may be made on a shorter notice than 48 hours, if the court so permits. Ordinarily a copy of the application shall be supplied to the Official Liquidator at least 48 hours before the application is heard.

44. In appeal, paper books shall be prepared at the cost of the appellant and shall be printed except where such printing is dispensed with by the Appellate Court, in which case the pager books shall be type-written.

Paper-books to ber prepared by appellant.

45. Note.—Normally ten copies of printed paper books or six copies of typed paper books will be prepared.

Contents of paper-books.

The paper book shall contain the following papers arranged in two parts in the same volume where practicable in the following order :—

PART I.

(1) Complaint,
(2) Charge or charges against the accused in the trial Court.
(3) Notes of evidence including statement of the accused.
(4) Judgment including sentence or order.
(5) Memorandum of appeal.
(6) Order admitting the appeal.
(7) Such other papers as may be deemed necessary by the Court.

PART II.

Exhibits.

Hearing of Appeals.

46. After the paper books have been prepared, the appeal shall be set down for hearing and final disposal before a Division Bench constituted by the Chief Justice and composed of not less than 2 Judges, being Judges other than the Judge by whom the original trial was held.

MISCELLANEOUS

Section 5 Limitation Act Applicable.

47. The provisions of Section 5 of the Indian Limitation Act shall apply to appeals—Civil or Criminal under the Act.

appeals.

48. All appeals—Civil or Criminal shall be filed with the Deputy Registrar and shall be registered if within time and are otherwise in conformity with the Rules.

Procedure reagarding appeals which are yond time

49. When an appeal—Civil or Criminal—appears to the Office to be beyond time, it shall be returned to the party or his advocate unless it is accompanied by a separate petition for excuse of delay or the party or his Advocate applies for it to be placed before the Court for orders.

50. An application for excusing the delay in presenting the appeal shall be filed within a fortnight of such return. Such application shall be placed before the Court for orders as soon as practicable.

Application for excusing delay.

51. The Deputy Registrar may return for amendment, within a time to be specified in an order to be recorded by him on the petition, any petition not drawn up in confirmity with these rules.

Returns of petition for removal of defects.

52. Where an appellant after the admission of an appeal does not prosecute the appeal diligently the appeal shall be placed before the Appellate Court for orders. The appellate Court may dismiss the appeal or pass such orders as it may deem fit.

Appeal not prosecuted diligently.

53. The provisions of the Code of Civil Procedure, the Code of Criminal Procedure and the High Court Rules and Orders, unless inconsistent with these Rules, shall apply *mutatis mutandis* to Civil and Criminal proceedings or Appeals under these Rules.

Applicability of Civil Procedure Code, Criminal Procedure Code and High Court Rules.

54. Unless otherwise ordered by the Judge, the Official Liquidator shall charge fees according to the following scale:-

Fees to be charged by Official Liquidator.

(1) (a) In the High Court, upon the total assets except as provided in clause (1)(b) including produce of calls on contributories, realised or brought to credit and not being moneys received and spent on carrying on the business :—

On the first Rs. 10,000 or fraction thereof	...	5%
On the next Rs. 15,000 or fraction thereof	...	3%
On the next Rs. 25,000 or fraction thereof	...	2½%
On the next Rs. 50.000 or fraction thereof	...	2%
On any sum above Rs. 1,00,000	...	1%
(b) On rents recovered	...	5%

(2) When the Official Liquidator collects, calls or realized property for debenture holders or other secured creditors, the same rate of fees

as under clause (1)(a) above to be paid out of the proceeds of such calls or property.

(3) When the Official Liquidator acts as Trustee under a scheme of arrangement, such remuneration not exceeding the rate of fees under clause (1)(a) above as the Court shall allow.

(4) When the Official Liquidator performs any special duties not provided for above, such amount as the Court on the application of the Official Liquidator may consider reasonable.

APPENDIX

FORM No. 1

[RULE 7 (h)].

Order appointing Special Officer

(For *general heading*, *see rule* 4)

Upon the petition of______________ filed___________ on the__________________day of 195 , under sub-section (1) of section 37 of the Banking Companies Act, 1949, as amended, upon hearing_____________________, Advocate for the petitioner, ___________________________, Advocate for the respondent, upon reading the petition and the affidavits of _____________and filed on the _________day of 195 .

(Enumerate all affidavits read) and the report of the Manager of the Reserve Bank of India, _________________ dated the _______________ day of _____________________195 and filed on the ___________ day of ___________ 195 .

It is ordered:—

(1) That A. B.

be and hereby is appointed the. Special Officer for the said ______________Bank, Limited, pending disposal of the petition read above, or until further orders.

(2) That the said A. B.

do forthwith take into his custody or under his control all the assets, books, documents, effects and actionable claims to which the said______________Bank, Limited, is or appears to be entitled and which are found at the registered office of the said Bank at (here enter the address) and at all its branches at (here enter the address of the branches).

(3) That all officers of the said Bank do assist the Special Officer in every aspect in carrying out this order.

(4) That the Special Officer do submit a report to this Court on or before the__________day of____________ 195 .

(5) That the Special Officer be at liberty to apply to this Court for directions, if necessary.

Dated.

Deputy Registrar.

Copy to-

A. B. Advocate

Special Officer,

FORM No. 2. *[rule* 12(b)]
(For *general heading see rule* 4).

Upon the petition of the above-named company [(or A. B.) ___________of______________a creditor (or contributory of the above-named Company) or of the Registrar of the Companies)], filed on the_____________day of________195 and the verification thereof by_______________________A. B., etc., filed, etc., and upon hearing the Advocate for (or attorney or agent of) the petitioner, and _________for_______ and upon reading the "Local Gazette" of the___________ day of__________ 195 , the newspaper of the day of _________ 19 (enter any other paper) each containing an advertisement of the said petition. This Court doth order that the said___________Company be wound up by this Court under provisions of the Banking Companies Act, X of 1949.

And it is ordered that the costs of the said petition be taxed and paid out of the assets of the said Company.

Dated

Deputy Registrar.

FORM No. 3

Form of the Certificate
[VIDE RULE 22(b)]
(For general heading, see rule 4)

O. L. *Applicant.*
Respondent. *Debtor No.*

Certificate under section 45-D(6) and rule 22(6).

Whereas in Application No. ______________ of 195 , the Official Liquidator, applied for settlement of the list of certain debts of the above-named bank;

And *Whereas* in respect of the debtor above-named an order was made by the Court on___________________day of___ ___________195 , in the presence of ___________________for the Liquidator and __________ for the said debtor;

It is hereby certified that the said (Debtor) was placed in the list as Debtor No.________________and he was adjudged liable to and directed to pay to the Liquidator the sum of money with interest and costs specified hereunder :

1	2	3	4	5	6	7
Serial Number	Name and Address	Description of Debt	Amount	Rate of interest	Costs	*Relief granted

*Here set out________________

(a) the relief against any guarantor;

(b) in the case of debts secured by mortgage the particulars of the mortgage property, the date of the order of sale and any other direction or directions of Court.

(c) in the case of payment by instalments, the particulars of the order as to payment of the instalments.

Dated

Deputy Registrar.

PART C.—RULES UNDER THE INDIAN DIVORCE ACT, 1869

In exercise of the powers conferred by section 62 of the Indian Divorce Act (IV of 1869), the Punjab High Court has made the following rules :—

1. These rules may be called the Indian Divorce (Punjab) Rules, 1956. 'Short Title.'

2. Proceedings under the Act shall be originated by filing a petition to which shall be attached a certified copy of the certificate of the marriage. How proceedings to be orginated.

3. (a) All such petitions shall be instituted as follows : — Title of petition.

In the Punjab High Court at _________ /District Court at _____

Matrimonial Jurisdiction.

In re : the Indian Divorce Act.

A. B. Petitioner

versus

C. D. Respondent.

E. F. Co-respondent.

Petitions under Section (s)—of the Indian Divorce Act.

(b) In the body of the petition shall be stated :— Content of petition.

(i) The place and date of the marriage and the name, status and domicile of the wife before the marriage;

(ii) Whether the petitioner or respondent professes the Christian religion at the time when the petition is presented;

(iii) the domicile of the husband at the time when the petition is presented, and his occupation and the place or places of residence of the parties respectively at the time of the presentation of the petitions.

(iv) the principal permanent addresses where the petitioner and respondent cohabited within the jurisdiction, and in particular the place where they last resided together;

(v) whether there is living issue of the marriage and if so, the names, and dates of birth or ages, of such issue;

(vi) whether there have been in any Court any, and if so, what previous proceedings with reference to the marriage by or on behalf of either of the parties to the marriage, and the result of such proceedings;

(vii) the matrimonial offences charged, set out in separate paragraphs including particulars of the times and places of their alleged commission.

Collusion or Connivance.

4. In cases where the petitioner is seeking a decree of nullity of marriage or of dissolution of marriage or of judicial separation, the petition shall further state that no collusion or connivance exists between the petitioner and the other party to the marriage, or alleged marriage.

Prayer of petition.

5. The petition shall conclude with a prayer setting out particulars of the relief claimed, including the amount of any claim for damages and any order for custody of children which is sought.

Signature of petitioner.

6. Every petition shall be signed by the petitioner. In the case of a minor it shall be signed both by the minor and his or her next friend and shall be accompanied by the undertaking mentioned in section 49 of the Act and by a petition

for approval of the next friend by the Court. In the case of a petition brought under section 48 of the Act it shall be signed by the person bringing the suit.

7. Pursuant to section 47 of the Act every petition shall be verified in manner provided by Order VI, rule 15, Civil Procedure Code. Verification of petition.

8. In every husband's petition for dissolution of marriage on the ground of adultery the alleged adulterers shall be made co-respondents in the suit unless the Judge shall otherwise direct by order on a petition, supported by affidavit pleading one or more of the grounds enumerated in section 11 of the Act. Alleged adulterers to be co-respondents.

9. The term "respondent" in these rules shall include a co-respondent so far as the same is applicable. Respondent includes co-respondents.

10. Every petition under the Act shall be accompanied by true copy(ies) thereof to be supplied to respondent (s). Copy(ies) for respondent(s) to accompany the petition.

11. The notice of petition shall be served by the court on each respondent by delivery of a copy thereof together with a true copy of the petition in the manner prescribed in the Code of Civil Procedure for the service of summons or notice on a defendant or respondent. How served.

12. Where personal service cannot be effected leave to substitute some other mode of service may be granted upon an application. Application for substituted service.

13. When it is order that a notice to respondent(s) shall be advertised the form of advertisement shall be settled by the court and a copy of the newspaper containing the advertisement shall be placed on record. Service by advertisement.

14. No order dispensing with service of a petition upon a party to be affected thereby shall be made by the Court. Order dispensing with service of petition.

Application to stay restitution proceedings.

15. At any time after the commencement of proceedings for restitution of conjugal rights the respondent may apply to the Judge for an order to stay the proceedings by reason that he or she is willing to resume or to return to cohabitation with the petitioner.

Answer to petition.

16. A respondent who has entered an appearance may within time limited by the notice file with the Court an answer to the petition. Such answer will be signed and verified in manner required by law for the verification of pleadings. A copy of the answer shall be delivered to the petitioner on the first hearing in the case.

Reply to Answer.

17. Where in any suit for the dissolution of marriage it appears from the answer that the respondent prays for relief under section 15 of the Act, the petitioner shall file a reply to the answer within fourteen days from the date of filing the answer. Save as aforesaid no pleading subsequent to the answer shall be delivered except by the leave of the Court.

No answer necessary if question of costs of custody of children.

18. After entering an appearance a respondent in a suit may without filing an answer be heard in respect of any question as to costs and a respondent who is husband or wife of the petitioner may be heard also as to custody of or access to children.

Evidence by affidavit.

19. Where any party proposes under section 51 of the Act to verify his case by affidavit such affidavit or affidavits must be filed and copy(ies) supplied to the other party at least two days before the next date fixed for the hearing of the case. The other party shall forthwith apply, if necessary to the Court for directions as to the deponents being produced for cross-examination at the hearing.

Security for Costs of Commission.

20. When an order is made for the examination of a witness on commission or *de hene asse,* a wife may apply for security for her costs of the

examination at the time of the order or subsequently by petition.

21. A Judge may direct, and any petitioner and any party to a cause who has entered an appearance may apply to the Court for a direction for, the separate trial of any issue or issues of fact, or any question as to the jurisdiction of the Court. Separate trial of issues.

22. A petition to the Court for reversal of a decree of judicial separation must set out the grounds on which the petitioner relies. Petition to reverse decrees.

23. Before such a petition can be filed an appearance on behalf of the party praying for a reversal of the decree of judicial separation must be entered in the suit in which the decree has been pronounced. Appearance of party praying reversal.

24. All subsequent pleadings and proceedings arising from such petition and answer shall be p filed and carried on in the same manner as before directed in respect of an original petition and answer thereto so far as such directions are applicable. Subsequent pleadings and proceedings.

25. Any person other than an officer appointed under section 17-A of the Act wishing to show cause under section 16 of the Act against making absolute a *decree nisi* shall apply *ex parte* by petition to the Court for leave to show cause, if the leave be granted such person shall within seven days from the date of the order enter an appearance in the case in which such *decree nisi* has been pronounced and file affidavits setting forth the facts upon which he relies, and shall within seven days from appearance serve certified copies of such affidavits on the party or the counsel for the party in whose favour the *decree nisi* has been pronounced. Application to show cause.

26. The party in the suit in whose favour the *decree nisi* has been pronounced may within fourteen days after delivery of the affidavits file affidavits Affidavits in answer.

in answer, and the person showing cause against the *decree nisi* being made absolute may within fourteen days file affidavits in reply.

No affidavit in rejoinder without leave.

27. No affidavits shall be filed in rejoinder to the affidavits ti reply without leave of the Judge and subject to any direction by the Judge the matter shall be heard and decided in the same manner as provided in the case of an original petition.

Six months between decree. *nisi* and absolute.

28. The *decree nisi* shall not be made absolute till after the expiry of not less than six months from the day on which the *nisi decree* was pronounced.

Petition for alimony.

29. A wife who is petitioner in a suit after service on the husband of the notice of petition, and a wife who is respondent, may after entering appearance, file a petition for alimony pending the suit under section 36 of the Act.

Answer thereto.

30. The husband may within fourteen days or such further time as may be allowed file an answer thereto duly verified as required by law for a pleading.

Hearing of summons.

31. Such notice shall be returnable before the Judge who may make an order on the saki petition or give such directions as to further evidence as he may think fit.

Applications under sections 37 and 38 of Divorce Act.

32. All applications under section 37 of the Act shall be made to the Court and shall be supported by affidavit. Such applications must be brought within one month of the completion of the decree absolute declaring a marriage to be dissolved or decree for judicial separation, as the case may by sub-section (1) of section 45-G of the Act, for directions, from the Judge on a petition. Application for the appointment of a new trustee under section 38 of the Act shall be made by petition to the Court.

33. Monthly or weekly sums ordered to be paid to a wife for her maintenance and support under section 37 of the Act shall, unless otherwise ordered, commence from the date of the decree absolute or decree for judicial separation, as the case may be.

Date payments under Section 37 to commence..

34. Pending the final determination of an application under section 37 of the Act an interim order may be made upon such terms as shall appear to the Court to be just and without prejudice to the effect of the order to be ultimately made.

Interim order

35. Applications under sections 39 and 40 of the Act shall be made on petition to the Court. The Court may make such reference for enquiry or report and to such officer as it may think fit but no order for the settlement of a wife's property or for the settlement of damages or for variation of settlements shall be made except by the Court.

Applications under sections 39 and 40 of Act.

36. Applications for interim orders under sections 41 and 43 of the Act shall be made by petition to the judge and shall be supported by affidavit.

Applications under sections 41 and 43 of Act.

37. Applications under sections 42 and 44 of the Act shall be made by petition, which shall be verified as required by law for a plaint and which together with a notice returnable before the Judge shall be served personally upon the party or parties to be affected thereby except where leave shall have been obtained from the Judge to dispense wkth such service or to substitute some other form of service.

Applications sections Act. Showing cause.

38. Any such party may show cause against the petition by filing affidavits or by filing an answer verified as required by law in the case of a pleading.

Showing cause.

39. All bills of costs shall be referred to the Deputy Registrar or the Superintendent in the District Court for taxation and may be taxed by him without any special order for that purpose.

Taxation.

Procedure to obtain order or wife's costs.

40. When the pleadings are complete, or by orders of a Judge obtained on petition, at any earlier stage, a wife who is a petitioner or has filed an answer, may file her bill or bills of costs for taxation as against her husband and the Judge may ascertain or cause to be ascertained what I s a sufficient sum of money to be paid into court or what is a sufficient security to be given by the husband to cover the cost of the wife for and incidental to the hearing of the cause, and may thereupon, unless the husband shall prove to the satisfaction of the Judge that wife has sufficient separate estate or shows other cause, issue an order to the husband to pay her costs upto the setting down of the cause and to pay into Court or secure the costs of hearing within a time to be fixed by the Judge. The Judge may in his discretion order the costs upto setting down of the cause to be paid into Court.

Application under section of th act.

41. An application to the High Court to remove a suit or proceeding under section 8 of the Act shall be made by an application to the Judge in open Court for a Rule upon the party or parties concerned to show cause against such removal.

Extention of time.

42. The time fixed by these rules for the performance of any act may in any particular case, be enlarged by the orders of a Judge subject to such terms and conditions as to costs or other matters as the Judge may think fit to impose.

Forms.

43. The forms given in the Appendix to these rules may be used in the proceedings under the Indian Divorce Act, 1889.

(High Court notification No. 291-Rules/XXVII-16, dated the 13th December, 1956).

APPENDIX

FORM A

In the Punjab High Court at

____

District

(RULE 11)

MATRIMONIAL JURISDICTION

Suit No. of 19 .

____Petitioner,

versus

____Respondent,

_____________________________________Co-Respondent.

To

____

____

*Whereas*____

has instituted a suit in this Court against you for________ under the provisions of the Indian Divorce Act, Sections (s)

____

____

_______________(a copy of this petition presented by the said petitioner is sent to you herewith) and you are hereby summoned to appear in this Court on the_______ day of_______at 10 o'clock in the forenoon to answer the said suit, either in person or by recognized agent duly instructed and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions, or by an advocate/Pleader of this Court similarly instructed or accompanied, and you are directed to produce on that day all the documents upon which you intend to reply in support of your defence. You may file an answer with this Court within—days of the service of this notice.

Take notice that, in default of your appearance on the day and in the manner above mentioned the suit will be heard and determined in your absence.

Given under my hand and the seal of the Court this ____________day of___________________.

By order,

Superintendent/Supdt. Judicial,

for District Judge/*for* Dy. Registrar

at _________________.

Note.—Hours of attendance at the Court are from 10 A.M. till 4 P.M. daily, Sundays and holidays excepted.

FORM B

IN THE PUNJAB HIGH COURT AT__________________

JUDICIAL DEPARTMENT

MATRIMONIAL JURISDICTION

REFERENCE SIDE CASE No. OF 19

____Plaintiff,

versus

____Respondent,

____Co-Respondent.

SUIT :—For dissolution of marriage.

To

____

____

Whereas a decree for dissolution of marriage between the parties above-named was named by the District Judge of the District on the _______day of 19 , subject to confirmation by the Punjab High Court for which proceedings have been forwarded under section 17 of the Indian Divorce Act, 1869, Notice is hereby given to you that the day of 19 , has been fixed by this Court for the hearing of the reference; you are also hereby informed that unless you move this Court, on or before the said date, either in person or by duly authorised agent fully instructed by you and able to answer all material questions relating to the suit or who shall be accompanied by some person able to answer all such questions, or by an Advocate or Vakil of this Court, so instructed, to confirm the said decree, the Court will not take the proceedings into consideration.

Given under my hand and the seal of the Court, this__________day of ________ , 19 .

By orders, &c.,

SUPERINTENDENT, JUDICIAL,
for DEPUTY REGISTRAR.

PART D.---RULES UNDER THE SPECIAL MARRIAGE ACT, 1954.

In exercise of the powers conferred by section 41 of the Special Marriage Act, 1954 (No. 43 of 1954), the Punjab High Court has made the following rules :—

Short title.

1. These rules may be called the Special Marriage Short title. (Punjab High Court) Rules, 1956.

Definitions.

2. In these rules, unless there is anything re- Definitions. pugnant in the subject or context

(a) 'Act' means the Special Marriage Act, 1954. (No. 43 of 1954).

(b) 'Form' means a form prescribed in the Act or appended to these rules.

(c) 'Section', 'Sub-Section' and 'Chapter' mean, respectively, Section, Sub-section and Chapter of the Act.

(d) All other terms and expressions used herein but not defined shall have the meaning assigned to them in the Act.

Petition to be accompained by certificate marriage.

3. A petition under the Act shall be accompanied Petition to be by a certified copy of the certificate of marriage g,"71FTP.t,,V1 (unless the certificate is already on the record).

Contents of the Petition.

4. (1) A petition under Chapter V or Chapter VI of shall state

(i) The date and place of marriage.

(ii) The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition.

(iii) The principal permanent addresses where the parties have cohabited, including the address where they last resided together.

(iv) Whether there have been previous proceedings with regard to marriage by or on behalf of any party; if so, the result of those proceedings.

(v) Whether any children were born of the marriage and, if so, the date and place of birth and the name and sex of each child separately; and whether alive or dead.

(vi) The matrimonial offences charged set in separate paragraphs with the times and places of their alleged commission.

Presentation of petition.

(2) Every petition under Chapters V and VI shall be presented to the Court in person or through an advocate or a pleader or a recognised agent.

Notice to respondent

5. (1) A notice of every petition or application under the Act shall be issued to the respondent in Form A to appear and answer the claim on a day to be therein specified:

Provided that no such notice would be necessary when the respondent appears at the time of the presentation of the petition or application.

Copies for respondent.

(2) Every such notice shall be accomplished by a copy of the petition or application. The required number of copies of the petition or application shall be supplied by the petitioner or applicant at the time of its presentation in Court.

Petition on ground of adultery. Adulterer to be impleaded as party.

6. Upon a petition presented by a husband for divorce on the ground of adultery, the petitioner shall make the alleged adulterer a co-respondent. The petitioner may, however, be excused from so doing on any of the following grounds with the permission of the Court

(a) That the respondent is leading the life of a prostitute and that the petitioner knows of no particular person with whom the adultery has been committed;

(b) That the name of the alleged adulterer is unknown to the petitioner although he has made due efforts to discover the same;

(c) That the alleged adulterer is dead.

7. In any petition for divorce the petitioner shall adultetyac t to be be required to give particulars as nearly as he given. can of the acts of adultery alleged to have been committed by the respondent or respondents as the case may be.

Full acts of adultery to be given.

8. Where a husband is charged with adultery with copy of a named person, a true copy of the pleadings containing such charge shall, unless the Court adulterers. for good cause shown otherwise directs, be served upon the person with whom adultery is alleged to have been committed, accompanied by a notice that such person is entitled, within the time therein specified, to apply for leave to intervene in the cause.

True copy of pleadings to be served on adulterers.

9. (a) A respondent or a co-respondent or a woman to whom leave to intervene has been granted respondents under these rules, may file in the Court an answer to the petition.

Pleadings of respondents and intervener to be verified.

(b) Any answer which contains matters other than a simple denial of the facts stated in the petition, shall be verified in respect of such matters by the respondent or co-respondent, as the case may be, in the manner required by the rules for the verification of petitions and when the respondent is husband or wife of the petitioner, the answer shall contain a declaration that there is not any collusion or connivance between the parties.

(c) Where the answer of a husband alleges adultery and prays for relief, a certified copy thereof shall be served upon the alleged adulterer, together with a notice to appear in like manner as on a petition. When in such a case no relief is claimed, the alleged adulterer shall not be made a co-respondent, but a certified copy of the answer shall be served upon him together with a notice 'that he is entitled within the time therein specified to apply for leave to intervene in the proceedings and upon such aplication, he may be allowed to intervene, subject to such direction, as may then be given by the Court.

Affidavit of nog-cohabitation for divorce after decree of judicial separation.

10. A petition for divorce, after the passing of a decree for Judicial separation, shall be accompanied by an affidavit made by the petitioner to the effect that he or she has not resumed co-habitatipn for a period of two years or upwards after the passing of a decree for judicial separation.

Permission Courts necessary to intervene.

11. A petition for divorce, after the passing of a decree for 23, 24, 25, 27 and 28 of the Act, may be permitted by the Court to intervene in those proceedings and to show that the allegations made by the petitioner in those proceedings were contrary to facts and that those proceedings were collusive. Such permission shall not be granted, unless the person seeking to intervene puts in an affidavit in support of his allegations, and the Court holds that it is proper to give such a permission, Every party or person intervening in the case, when he first appears in Court shall file a proceeding stating his or her address for service.

Dismissal in default and restoration of petition.

12. (a) If any petition has been dismissed in default for non-appearance or for non-prosecution of the same, the Court may restore the same on a petition, presented within 60 days from the date of the order of dismissal, if sufficient cause is shown for the restoration. But in all cases, where the petition has been dismissed in the presence of the respondent, the same shall not be restored unless a notice is issued to the respondent.

When can exparte orders be set aside.

(b) When *ex parte* proceedings have been taken in a case, under Chapters V, VI and VII of the

Act, the same may be set aside on sufficient cause being shown. The petition for setting aside the *ex* parte proceedings shall be made within 60 days from the date of service and where no service has been effected from the date of knowledge. Sections 5 and 12 of the Indian Limitation Act shall apply to proceedings for restoration or setting aside *ex parte* decree and for purposes of appeal.

13. In cases where damages are claimed from the Claim adulterer co-respondent, the ground on which dmaZ:gesof such damages are founded shall be fully and assessment. clearly stated in the petition for divorce as also the mode of its assessment.

Claim for damages and mode of its assessment.

The petitioner shall specify the amount claimed as damages from the adulterer co-respondent, and if the adultery is proved, such damages as the Court may deem proper be assessed and paid to the petitioner, although the respondent or either of them may not appear.

14. Whenever in any petition presented by a co-husband the alleged adulterer has been made respondent of a co-respondent and adultery has been estab- pthainiTts of lished, the Court may order the co-respondent to pay the whole or any part of the costs of the proceedings, provided that the co-respondent shall not be ordered to pay the petitioner's costs.—

Payment by co-respondent of the costs of petition.

(i) if the respondent was at the time of adultery living apart from her husband and was leading a life of a prostitute, or

(ii) if the co-respondent had not, at the time of adultery, reason to believe the respondent to be a married woman.

15. Every Court shall maintain a register in which Register to be the details regarding petitions shall be entered maintained. and it shall conform to Civil Register No. 3, maintained for Divorce and Materimonial Cases.

Register to be maintained.

16. The forms given in the Appendix to these rules may, with necessary modifications, be used in the proceedings under the Act.

(High Court notification No. 272-General/XXVII-12, dated the 22nd November, 1956).

APPENDIX

FORM A (RULE 5).

NOTICE

In the District Court at ____________________________

Matrimonial and Divorce Jurisdiction

Case No. ______________ Date of Institution _________

____ Petitioner

Versus

____ Respondent

____Co-respondent.

To

____

____

*Whereas*__________has resented a petition/application against you for___________ under section___________ of the Special Marriage Act, 1954, (No. 43 of 1954) (A copy of the said petition/application is sent herewith), you are hereby summoned to appear in this Court on the______________at 10 o'clock in the forenoon to answer the said petition/applicatibn. either in person or by recognized agent duly instructed and able to answer all material questions relating to the case, or who shall be accompanied by some other person able to answer all such questions or by an Advocate or Pleader similarly instructed or accompanied and you are directed to produce on that day all documents upon which you intend to rely in support of your defence. You may file an answer to the petition/application on the date mentioned above.

You are further informed that in default of your appearance on the day and in the manner above mentioned the petition/application will be heard and determined in your absence.

Given under my hand and the seal of this Court, this ___________day of_________ , nineteen hundred and____.

By order,
District Judge,
at____________

Dated _____________

NoTE.—Hours of attendance at the Court are from 10 A.M. till 4 P.M.

FORM B (RULE 16).

In the District Court at__________________________.

____Petitioner.

Versus

____Respondent.

Petition for the restitution of conjugal rights under section 22 of the Special Marriage Act, 1954

(No. 43 of 1954)

The petitioner prays as follows:-

husband
1. The petitioner is the___________of the respondent.
wife

solemnised under
The marriage between the parties was ________________
registered under

Chapter II
______________of the Act by the Marriage Officer of ______
Chapter III
at____________on____________________. A certified copy of the certificate of marriage is attached with this petition.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows :—

	Husband		Wife	
	Status	Place of residence	Status	Place of residence
(i) Before marriage (ii) At the time of filing the petition.				

3. (In this paragraph particulars and place(s) of co-habitation as husband and wife and the children from the marriage, if any, may be given. The date and place of birth and name and sex of each child and the fact whether the child is alive or dead should also be stated).

____

____

4. The respondent has, without reasonable excuse, withdrawn from the society of the petitioner with effect from . (Give below the cause of the estrangement as known to the petitioner).

____

____

____

5. There has not been any unnecessary or improper delay in filing this petition.

6. The petition is not presented in collusion with the respondent.

7. There is no other legal ground why the relief should not be granted.

8. There has not been any previous proceeding with regard to the marriage by or on behalf of any party.

OR

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties :

Serial No.	Name of parties	Nature of proceeding with section of the Act	Number and year of the case	Name and location of court	Result
i.					
ii.					
iii.					
iv.					

9. The marriage was solemnised within the local

Parties reside.____________

Parties last resided together.

limits of the jurisdiction of this Court.

10. The petitioner therefore prays for a decree for restitution of conjugal rights against the respondent.

Sd.________________

Petitioner.

Verification.

The above named petitioner states on solemn affirmation that paras 1 to________________of the petition are true to the best of the petitioner's information and belief.

Verified at _____________ (place).

Dated Sd.____________

Petitioner.

FORM C (RULE 16)

In the District Court at ______________________________

____ Petitioner.

Versus

____Respondent.

Petition for Judicial Separation under section 23 of the Special Marriage Act, 1954

(No. 43 of 1954)

The petitioner prays as follows :—

1. The petitioner is the husband / wife __________ of the respondent.

The marriage between the parties was solemnised under / registered under ____________________ Chapter II / Chapter III ___________of the Act by the Marriage Officer of___________ at_____________ on _____________. A certified copy of the certificate of marriage is attached with this petition.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows :—

	Husband		Wife	
	Status	Place of residence	Status	Place of residence
(iii) Before marriage (iv) At the time of filing the petition.				

3. (In this paragraph particulars and place(s) of co-habitation as husband and wife and the children from the marriage, if any, may be given. The date and place of birth and name and sex of each child and the fact whether the child is alive or dead should also be stated).

4. The respondent (here any one or more of the grounds specified in section 27 (other than those specified in clauses (I) and (J) of that section) and clause (b) of sub-section (1) of section 23 may be pleaded. The matrimonial offences charged should be set in separate paragraphs, with the times and places of their alleged commission. The facts on which the claim to relief is founded should be stated as distinctly as the nature of the case permits. If adultery is pleaded the petitioner should give particulars, as nearly as he can of the acts of adultery alleged to have been committed).

5. (Where the ground of petition is adultery) the petitioner has not in any manner been accessory to or connived at or condoned the adultery.

6. (Where the ground of the petitioner is cruelty). The petitioner has not in any manner condoned the cruelty.

7. There has not been any unnecessary or improper delay in filing this petition.

8. The petition is not presented in collusion with the respondent.

9. There is no other legal ground why the relief should not be granted.

10. There has not been any previous proceedings with regard to the marriage by or on behalf of any party.

OR

There have been the following previous proceedings w#11 regard to the marriage by or on behalf of the parties:—

Serial No.	Name of parties	Nature of proceeding with section of the Act	Number and year of the case	Name and location of court	Result
i.					
ii.					
iii.					
iv.					

11. The marriage was solemnised within the local limits
husband and wife reside
of the ____
husband and wife last resided together
jurisdiction of this Court.

12. The petitioner therefore prays for a decree for judicial separation against the respondent.

(Sd.)____________________

Petitioner.

Verification.

The above-named petitioner states on solemn affirmation that paras 1 to of the petition are true to the best of the petitioner's information and belief.

Verified at_____________(place). Sd.____________________

Dated___________________ Petitioner.

FORM D (RULE 16).

In the District Court at_______________

____Petitioner.

Versus

____Respondent.

Petition of a decree of nullity of marriage under section 24(1) of the Special Marriage Act, 1954 (No. 43 of 1954) (When petitioner is a party to the marriage).

The petitioner prays as follows :—

1. The petitioner is the husband of the respondent.
wife

The marriage between the parties was solemnised under Chapter II of the Act by the Marriage Officer of at_____________ on_____. A certified copy of the certificate of marriage is attached with this petition.

2. The status and place of residence of the parties to the marriage before the marriage at the time of filing the petition were as follows : —

3. (In this paragraph particulars and place (s) of co-habitation as husband and wife and the children from the marriage, if any, may be given. The date and place of birth and name and sex of each child and the fact whether the child is alive or dead should also be stated).

4. At the time of the marriage (i) respondent had a petitioner spouse living (ii) the respondent was an idiot or a lunatic (iii) the respondent, being the husband of the petitioner had not completed the age of twenty-one years (iv) the respondent being the wife of the petitioner had not completed the age of eighteen years (v) the respondent was impotent and is so on the date of the institution of the suit (vi) the parties were within the prohibited degree of relationship.

(One or more of the above grounds may be pleaded and portions which are not applicable should be scored out. Facts on which the claim to relief is founded should be stated as distinctly as the nature of the case permits. The matrimonial offences charged should be set in separate paragraphs with times and places of their alleged commission).

5. There has not been any previous proceedings with regard to the marriage by or on behalf of any party.

OR

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties :—

6. There has not been any unnecessary or improper delay in filing this petition.

7. The petition is not presented in collusion with the respondent.

8. There is no other legal ground why the relief should not be granted.

9. The marriage was solemnized within the local
parties reside
parties last resided together limits of the jurisdiction of this Court.

OR

(Where the petition is by a wife domiciled in the territories of India except the State of Jammu and Kashmir).

The petitioner is resident within the territories of India, except the State of Jammu and Kashmir and has been ordinarily resident therein for a period of three years immediately preceding the presentation of thiis petition and the respondent is not resident in the said territories.

10. The petitioner therefore prays that the marriage solemnised between the parties under the Act being null and void may be so declared by the Court by a decree of nullity.

Sd.__________________

Petitioner.

Verification.

The above-named petitioner states on solemn affirmation that paras 1 to ____ to the best of the petitioner's information and belief.

Verified at ____________ (Place).

Sd. _______________

Dated ________________ Petitioner

FORM E (RULE 16).

In the District Court at_________________________

____ Petitioner

versus

Shri_____________________________ Respondent No. 1

Shrimati _______________________ Respondent No. 2.

Petition for a decree of nullity of marriage under section 24(1) of the Special Marriage Act, 1954 (No. 43 of 1954). (When petitioner is not a party to the marriage).

The petitioner prays as follows :—

1. A marriage between respondents was solemnised under Chapter II of the Act by the Marriage Officer of ________at ___________ on______. A certified copy of the certificate of marriage is attached with this petition.

2.The petitioner is related to Respondent (s) No., ____________ , being ______________(State relationship).

3. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows:-

	Husband		Wife	
	Status	Place of residence	Status	Place of residence
(i) Before marriage (ii) At the time of filing the petition				

4. (In this paragraph particulars and place (s) of cohabitation as husband and wife and the children from the marriage, if any, may be given. The date and place of birth and name and sex of each child and the fact whether the child is alive or dead should also be stated).

5. At the time of the marriage (i) respondent No. ___________had a spouse living (ii) respondent No._______ was an idiot or a lunatic (iii) respondent No._____________ being the husband of respondent No. ______________ had not completed the age of 21 years (iv) respondent No. ______________ being the wife of respondent No. ________ had not completed the age of eighteen years (v) respondent No. was impotent and is so on the date of institution of the suit (vi) respondents were within the prohibited degree of relationship.

(One or more of the above grounds may be pleaded and portions which are not applicable should be scored out. Facts on which the claim to relief is founded should be stated as distinctly as the nature of the case permits. The matrimonial offences charged should be set in separate paragraphs with the times and places of their alleged commission).

6. There has not been any previous proceeding with regard to the marriage by or on behalf of any party.

OR

There have been the following previous proceedings with regard to marriage by or on behalf of the parties :—

Serial No.	Name of parties	Nature of proceedings with section of the Act	Number and year of the case	Name and locatiion of the court	Result
(i) (ii) (iii) (iv)					

7. There has not been any unnecessary or improper delay in filing this petition.

8. There is no other legal ground why the relief should not be granted.

9. The marriage was solemnised / the respondents reside ______ . / the respondents last resided together within the local limit of jurisdiction of this Court.

10. The petitioner therefore prays that the marriage solemnised under Chapter II of the Act between the respondents being null and void may be so declared by the Court by a decree of nullity.

Sd.____________________
Petitioner.

Verification :

The above-named petitioner states on solemn affirmation that paras I to ___ of the petition are true to the best of the petitioner's information and belief.

Verified at __________ (Place).

Sd.____________________

Date

Petitioner.

FORM F. (RULE 16).

In the District Court at ___________________________

____Petitioner

versus

______________________________________ ___Respondent.

Petition under Section 24(2) of the Special Marriage Act, 1954 (No. 43 of 1954) for having the registration of a marriage under Chapter III of that Act declared to be of no effect. (When the petitioner is a party to the marriage).

The petitioner prays as follows :—

1. The petitioner is the husband of the respondent.
wife

The marriage between the parties was registered under Chapter III of the Act by the Marriage Officer of __________at__________ on__________and it may be deemed to be a marriage solemnised under the Act by virtue of the provisions of section 18. A certified copy of the certificate of marriage is attached with this petition.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows :—

	Husband		Wife	
	Status	Place of residence	Status	Place of residence
i. Before marriage ii. At the time of filing the petition				

3. [In this paragraph particulars and place(s) of co-habitation as husband and wife and the children from the marriage, if any, may be given. The date and place of birth and name and sex of each child and the fact whether the child is alive or dead should also be stated].

4. At the time of the said registration (i) a ceremony of marriage had not been performed between the parties (ii) a ceremony of marriage had been performed between the parties but they had not been living together as husband and wife ever since then (iii) the petitioner had
respondent

more than one spouse living (iv) the petitioner was an idiot
respondent

or a lunatic (v) the petitioner had not completed the
respondent
parties

age of twenty-one years (vi) the parties were within the degrees of prohibited relationship and (only in case of marriage celebrated before the commencement of the Act) there was no law, custom or usage having the force of law governing each of the parties which permitted a marriage between them.

(One or more of the above grounds may be pleaded and portions which are not applicable should be scored out. Facts on which the claim to relief is founded should be stated as distinctly as the nature of the case permits. The matrimonial offences charged should be set in separate paragraphs with the times and places of their alleged commission).

5. There has not been any previous proceeding with regard to the marriage by or on behalf of any party.

OR

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties :—

Serial No.	Names of parties	Nature of proceedings with section of the Act	Number and year of the case	Name and location of Court	Result
i. ii. iii. iv.					

6. There has not been any unnecessary or improper delay in filing this petition.

7. The petition is not presented in collusion with the respondent.

8. There is no other legal ground why the relief should not be granted.

9. The marriage was solemnised or registered within
parties reside .
parties last resided together
the local limits of the jurisdiction of this Court.

10. The petitioner therefore prays that the registration of the said marriage under Chapter III of the Act may be declared by Court to be of no effect.

Sd.____________________

Petitioner.

Verification :

The above-named petitioner states on solemn affirmation that paras 1 to _________ of the petition are true to the best of the petitioner's information and belief.

Verified at _____________ (Place).

Sd.__________________

Petitioner.

Dated___________________

FORM G. (RULE 16)

In the District Court at_______________________________

____Petitioner

versus

Shri______________________________ Respondent No. 1.

Shrimati _________________________ Respondent No. 2.

Petition under section 24(2) of the Special Marriage Act, 1954 (No. 43 of 1954) for having the registration of a marriage under Chapter III of that Act declared to be of no effect.

The petitioner prays as follows :—

1. A marriage between the respondents was registered by the Marriage Officer of _________ at _________on ________ under Part III of the Act and may be deemed to be a marriage solemnised under the Act by

virtue of the provisions of section 18. A certified copy of the certificate of marriage is attached with this petition.

2. The petitioner is related to respondent (s) No. ___________, being ____________ (State relationship).

3. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows :—

	Husband		Wife	
	Status	Place of residence	Status	Place of residence
i. Before marriage ii. At the time of filing the petition.				

4. (In this paragraph particulars and place(s) of cohabitation as husband and wife and children from the marriage, if any, may be given. The date and place of birth and name and sex of each child and the fact whether the child is alive or dead should be stated).

5. At the time of the said registration (i) a ceremony of marriage had not been performed betwen the respondents (ii) a ceremony of marriage had been performed between the respondents but they had not been living together as husband and wife ever since then (iii) respondent No. ______had more than one spouse living (iv) respondent No. _______ was an idiot or a lunatic (v) respondent No._________had not completed the age of twenty-one years (vi) the respondents were within the degree of prohibited relationship and (only in case of marriages celebrated before the commencement of the Act) there was no law, custom of usage having the force of law, governing each of the respondents which permitted a marriage between them.

(One or more of the above grounds may be pleaded and portions which are not applicable should be scored out. Facts on which the claim to relief is founded should be stated as distinctly as the nature of the case permits. The matrimonial offences charged should be set in separate paragraphs with the times and places of their alleged commission).

6. There has not been any previous proceedings with regard to the marriage by or on behalf of any party.

OR

There have been the following proceedings with regard to the marriage by or on behalf of the parties :—

Serial No.	Name of parties	Nature of proceedings with section of the Act	Number and year of the case	Name and location of Court	Result
i. ii. iii. iv.					

7. There has not been any unnecessary or improper delay in filing this petition.

8. There is no other legal ground why the relief should not be granted.

9. The marriage was solemnised / respondents reside / the respondents last resided together within the local limits of the jurisdiction of this court.

10. The petitioner therefore prays that the registration of the marriage between the respondents under Chapter III of the Act may be declared by the court to be of no efect.

Sd. ____________

Petitioner,

Dated

Verification :

The above-named petitioner states on solemn affirmation that paras 1 to___________ of the petition are true to the best of the petitioner's informaion and belief.

Verified at ______________ (Place).

Dated______________.

Sd.______________

Petitioner

FORM H. (RULE 16).

In the District Court at ______________________________

_______________________________________Petitioner.

versus

_______________________________________ Respondent.

Petition for the annulment of a marriage under section 25 of the Special Marriage Act, 1954 (No. 43 of 1954).

The petitioner prays as follows :—

1. The petitioner is the husband / wife of the respondent.

The marriage between the parties was solemnised under / registered under Chapter II / Chapter III of the Act by the Marriage Officer of____________ ___________ at ___________ on_______________ . A certified copy of the certificate of marriage is attached to this petition.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows :

	Husband		Wife	
	Status	Place of residence	Status	Place of residence
i. Before marriag ii. At the time of filing the petition.				

3. (In this paragraph particulars and place (s) of co-habitation as husband and wife and the children from the marriage, if any, may be given. The date and place of birth and name and sex of each child and the fact whether the child is alive or dead should also be stated).

4. The petitioner prays for the annulment of this marriage on the ground(s) that (i) the marriage has not been consummated owing to the wilful refusal of the respondent to consummate it.

(ii) the respondent was at the time of the marriage pregnant by some person other than the petitioner and the petitioner was ignorant of the fact at the time of the marriage and marital intercourse with the consent of the petitioner has not taken place since the discovery by the petitioner of the existence of these grounds for a decree and the proceedings have been instituted within a year of the date of the marriage.

(iii) The consent of the petitioner to the marriage was obtained by coercion or fraud, as defined in the Indian Contract Act, 1872 (IX of 1872) and within one year of the cessation of the coercion or the discovery of the fraud, as the case may be, the petitioner (a) has instituted the proceedings and (b) has not with his/her free consent lived with the respondent as husband/wife.

(One or more of the above grounds may be pleaded and the portions which are not applicable should be scored out. Facts on which the claim to relief is founded should be stated as distinctly as the nature of the case permits. The matrimonial offences charged should be set in separate paragraphs with the times and places of their alleged commission).

5. There has not been any unnecessary or improper delay in the institution of the proceedings.

6. The petition is not presented in ollusion with the respondent.

7. There has not been any previous proceeding with regard to the marriage by or on behalf of any party.

OR

There have been the following previous proceedings with regard to the marriage by or on behalf of any party.

Serial No.	Names of parties	Nature of proceedings with section of the Act	Number and year of the case	Name and location of Court	Result
i. ii. iii. iv.					

8. There is no other legal ground why the relief should not be granted.

9. The marriage was solemnised within the local
the parties reside .
the parties last resided together
limits of the jurisdiction of this court.

OR

(Where the petition is by a wife domiciled in the territories of India except the State of Jammu and Kashmir). The petitioner is resident within the territories of India, except the State of Jammu and Kashmir and has been ordinarily resident therein for a period of three years immediately preceding the presentation of this petition and the respondent is not resident in the said territories.

10. The petitioner therefore prays that the marriages between the parties being voidable, may be annulled by the court by a decree of nullity.

Sd.____________________

Petitioner.

Verification :

The above-named petitioner states on solemn affirmation that paras I to ____________ of the petition are true to the best of the petitioner's information and belief.

Verified at _____________ (Place).

Sd. ___________________

Petitioner.

Dated ________________

FORM I. (Rule 16).

In the District Court at________________________________

____Petitioner

versus

____________________________________ ___ Respondent

____________________________________ Co-respondent.

Petition for divorce under section 27 of the Special Marriage Act, 1954 (No. 43 of 1954).

The petitioner prays as follows:-

1. The petitioner is the husband of the respondent.
wife

The marriage between the said parties was solemnised
registered

under Chapter II of the Act by the Marriage Officer of
under Chapter III

_________ at _________ on ________. A certified copy of the certificate of marriage is attached with his petition.

2. The status and place of residence of the parties to the marriage before the Marriage and at the time of filing the petition were as follows:—

	Husband		Wife	
	Status	Place of residence	Status	Place of residence
i. Before marriage				
ii. At the time of filing the petition.				

3. (In this paragraph particulars and place (s) of co-habitation as husband and wife and the children from the marriage, if any, may be given. The date and place of birth and name and sex of each child and the fact whether the child is alive or dead should also be stated).

____

____

4. The respondent has, ______________________________

____

(One or more of the grounds specified in section 27 may be pleaded here. The facts on which the claim to relief is founded should be stated as distinctly as the nature of the case permits. If adultery is pleaded the petitioner as distinctly should give particulars as nearly as he can, of the acts of adultery alleged to have been committed. The matrimonial offences charged should be set in separate paragraphs with the times and places of their alleged commission. If the ground specified in clause (i) of section 27 is pleaded, the petition should be accompanied by an affidavit that the petitioner has not resumed cohabitation for a period of two years or upwards after passing of the decree for judicial separation against the respondent).

5. (Where the ground of petition is adultery). The petitioner has not in any manner been accessory to or connived at or condoned the adultery.

6. (Where the ground of petition is cruelty). The petitioner has not in any manner condoned the cruelty.

7. The petition is not presented in collusion with the respondent.

8. There has not been any unnecessary or improper delay in instituting the proceeding.

9. There has not been any previous proceeding with regard to the marriage by or on behalf of any party.

OR

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties:—

Serial No.	Name of parties	Nature of proceedings with section of the Act	Number and year of the case	Name and location of Court	Result
i. ii. iii. iv.					

10. (In petitions by a husband for divorce on grounds of adultery where damages are claimed against the co-respondent) (Grounds on which the claim to damages is founded should be fully and clearly stated and the amount claimed and the mode of assessment should be specified).

____

____

11. There is no other Legal ground why the relief should not be granted.

12. The Marriage was solemnised within the local
husband and wife reside ______________.
husband and wife last resided together
limits of the Jurisdiction of this Court.

OR

(Where the petition is by a wife domiciled in the territories of India except the State of Jammu and Kashmir). The petitioner is resident within the territories of India except the State of Jammu and Kashmir and has been ordinarily resident therein for a period of three years immediately preceding the presentation of this petition and the respondent is not resident in the said territories.

13. The petitioner therefore prays that he may be granted a decree of divorce against the respondent, and (to be scored out if unnecessary) may further be granted a decree for recovery of Rs. ________________ as damages against the adulterer co-respondent.

Sd. ____________

Petitioner.

Verification.

The above-named petitioner states on solemn affirmation that paras 1 to __________ of the petition are true to the best of the petitioner's information and belief.

Verified at ________________ (Place).

Sd.______________

Dated _________________________

Petitioner.

FORM J. (RULE 16).

In the District Court at _________________________

_______________________________________ (Husband)

____ (Wife)

Petitioners.

Petition for divorce by mutual consent under section 28 of the Special Marriage Act, 1954 (No. 43 of 1954).

The petitioners pray together as follows :

1. A marriage between the petitioners was solemnised

under Chapter II

registered _______________ of the Act by the Marriage

under Chapter III

Officer of _______ at _________ on _________ A certified copy of the certificate of marriage is attached to this petition.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows:—

	Husband		Wife	
	Status	Place of residence	Status	Place of residence
i. Before marriage ii. At the time of filing the petition.				

3. (In this paragraph particulars and place(s) of co-habitation as husband and wife and the children from the marriage, if any, may be given. The date and place of birth and name and sex of each child and the fact whether the child is alive or dead should also be stated).

____

____

4. The petitioners have been living separately for a period of one year or more and have not been able to live together and the petitioners have mutually agreed that the marriage should be dissolved.

5. The consent of either party has not been obtained by force, fraud or undue influence.

6. There is no collusion between the petitioners.

7. There has not been any previous proceeding with regard to the marriage by or on behalf of any party.

OR

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties:—

Serial No.	Name of parties	Nature of proceedings with section of the Act	Number and year of the case	Name and location of Court	Result
i. ii. iii. iv.					

8. There has not been any unnecessary or improper delay in filing this petition.

9. There is no other legal ground why the relief should not be granted.

10. The marriage was solemnised within the local
petitioners reside ___________.
petitioners last resided together

limits of the jurisdiction of this Court.

The petitioners therefore pray for a decree declaring the marriage to be dissolved with effect from the date of the decree.

Sd.__________(husband)

Sd.__________(Wife)

Petitioners.

Verification.

The above-named petitioner (husband) states on solemn affirmation that paras 1 to______of the petition are true to the best of the petitioner's information and belief.

Verified at __________ (Place).

Date ______________________ Sd._______________.

(Husband) Petitioner.

The above-named petitioner (wife) states on solemn affirmation that paras 1 to ________ of the petition are true to the best of the petitioner's information and belief.

Verified at _____________ (Place).

Date ______________________ Sd.____________________

(Wife) Petitioner.

FORM K. (Rule 16).

In the District Court at ____________________________

____Applicant.

versus

____Respondent.

Application that a petition for divorce may be allowed to be presented before three years have elapsed since the date of entering of the certificate of marriage in the Marriage Certificate Book under section 29 of the Special Marriage Act, 1954 (No. 43 of 1954).

The applicant prays as under:—

1. The applicant is the husband / wife of the respondent.

The marriage between the parties was solemnised under / registered under Chapter II / Chapter III of the Act by the Marriage Officer of ____________ at __________ on ____________, and a certificate of marriage was entered in the Marriage Certificate Book on_______________. A certified copy of the certificate of marriage is attached with this application.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the application were as follow:—

	Husband		Wife	
	Status	Place of residence	Status	Place of residence
i. Before marriage ii. At the time of filing the petition.				

3. (In this paragraph particulars and place (s) of co-habitation as husband and wife and the children from the marriage, if any, may be given. The date and place of birth and name and sex of each child and the fact whether child is alive or dead should also be stated).

4. This is a case of (i) exceptional hardship suffered by the applicant (ii) exceptional depravity on the part of the respondent, as…………………(state as distinctly as the nature of the case permits the particulars about the exceptional hardship or depravity, as the case may be. The matrimonial offences charged should be set in separate paragraphs with the times and places of their alleged commission).

5. There has not been any previous proceeding with regard to the marriage by or on behalf of any party.

OR

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties:—

Serial No.	Name of parties	Nature of proceedings with section of the Act	Number and year of the case	Name and location of Court	Result
i. ii. iii. iv.					

6. The marriage was solemnised within the local
parties reside .
parties last resided together
limits of the jurisdiction of this Court.

OR

(where the application is by a wife domiciled in the territories of India except the State of Jammu and Kashmir).

The applicant is resident within the territories of India excluding the State of Jammu and Kashmir and has been ordinarily resident therein for a period of three years immediately preceding the presentation of this application and the respondent is not resident in the said territories.

7. The applicant therefore prays that he/she may be allowed to present a petition for divorce before the expiration of three years from the date of marriage.

Sd.____________

Applicant.

Verification

The above-named applicant states on solemn affirmation that paras 1 to of the application are true to the best of the applicant's information and belief.

Verified at ______________________ (place).

Date_____________.

Applicant.

FORM L. (RULE 16).

In the District Court at ________________________

Shrimati ________________________________ Applicant

versus

Shri. ____

Respondent.

Application for alimony *pendente lite* under section 36 of the Special Marriage Act, 1954 (No. 43 of 1954).

The applicant prays as under-

1. A proceeding under Chapter V/VI of the Act is pending in this Court between the parties. (Give V/VI, of the Act is pending in this number and title of the case, date of hearing etc.).

2. The applicant owns no other movable or immovable property and has no other income except (Give full particulars of the applicants' property and income, etc.).

3. The applicant has no independent income sufficient for her support and for the necessary expenses of the proceedings.

4. The respondent has sources of income and owns property mentioned below:—

.............................(Give full particulars about respondents
income and property etc.).

5. The respondent may be ordered to pay a sum of Rs. ____________ as the applicant's expenses of the proceedings and a sum of Rs. ___________monthly/weekly for applicant's support during the proceedings.

(Sd.) Shrimati_____________
Applicant.

Verification

The above-named applicant states on solemn affirmation that paras 1 to of the application are true to the best of the applicant's; information and belief.

Verified at ________________ (Place).

Dated___________.

Sd.____________________.

Applicant.

FORM M. (RULE 16).

In the District Court at ______________________

Shrimati ______________________ _____Applicant

versus

Shri ______________________________ Respondent.

Application for permanent alimony and maintenance under section 37 of the Special Marriage Act, 1954 (No. 43 of 1954).

The applicant prays as under:-

1. A proceeding between the parties under Chapter V/ VI of the Act is pending in this Court. (Give particulars
has been decided by
like section of the Act, number and title of case, date of decree or hearing etc.) ....

....

2. ....The applicant owns no other movable or immovable property and has no other source of income except .... (Give full details of applicants' property and income, etc.).

3. The applicant has no sufficient income for her maintenance and support.

4. The respondent has sources of income and owns property mentioned below:—

.... (Given full particulars about respondent's income and property etc.).

5. The respondent is able and legally bound to maintain and support the applicant in a manner beftttin.g his and applicant's social position.

6. The applicant has not conducted herself in any manner which would disentitle her from receiving maintenance and support from the respondent and has not remarried.

The applicant prays that the respondent may be ordered to secure to the applicant for her maintenance and support until her death or remarriage gross sum of
monthly
yearly

Rs. __________ and (score out if unnecessary) the said sum should be made a charge on the respondent's property.

(Sd.) ________________

Applicant.

Verification.

The above-named applicant states on solemn affirmation that paras 1 to ______ of the application are true to the best of the applicants' information and belief.

Verified at ____________________ (Place).

Dated ______________________. (Sd.)_________________

Applicant

PART E—RULES UNDER THE HINDU MARRIAGE ACT, 1955

In exercise of the powers conferred by Section 21 of the Hindu Marriage Act, 1955 (No. 25 of 1955), the Punjab High Court has made the following rules :—

Short title.

1. These rules may be called the Hindu Marriage (Punjab) Rules, 1956.

Definitions.

2. In these rules, unless there is anything repugnant in the subject or context-

(a) 'Act' means the Hindu Marriage Act, 1955 (No. 25 of 1955).

(b) 'Form' means a form appended to these rules.

(c) 'Section' and 'Sub-Section' mean, respectively, section and sub-section of the Act.

(d) All other terms and expressions used herein but not defined shall have the meaning respectively assigned to them in the Act.

Petition to be acccompained by extract or affidavit re-marriage.

3. A petition under the Act shall be accompanied by a certified extract from the Hindu Marriage Register maintained under section 8 of the Act and in the absence of the same an affidavit, to the effect that petitioner was married to the respondent, (unless the certificate or affidavit is already on the record).

Contents of the Petition.

4. All petitions under sections 9 to 13 shall state:-

(i) The date and place of the Marriage.

(ii) Whether the petitioner and the respondent were Hindus by religion at the time of the marriage and whether they continue to be so upto the date of the filing of the petition.

(iii) the status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition.

(iv) the principal permanent addresses where the parties have co-habited, including the address where they last resided together.

(v) whether there have been previous proceedings with regard to marriage by or on behalf of any party; if so, the result of those proceedings.

(vi) whether any children were born of the marriage and if so, the date and place of birth and the name and sex of each child separately; and whether alive or dead.

(vii) the matrimonial offences charged set in separate paragraphs with the times and places of their alleged commission.

Petition to be accompanied by affidavit to show that there is no collusion or connivance.

5. A petition for divorce on grounds of adultery, shall state that the petitioner has not in any manner been accessory to or connived at or condoned the adultery.

Full acts or adultery to be given.

6. In any petition for divorce the petitioner shall be required to give particulars as nearly as he can of the acts of adultery alleged to have been committed by the respondent or respondents, as the case may be.

Affidavit of non co-habitation for divorce after decree of judicial separation.

7. A petition for divorce, after the passing of a decree for judicial separation, shall be accompanied by an affidavit made by the petitioner to the effect that he or she has not resumed co-habitation for a period of two years or upwards after the passing of a decree for judicial separation.

Presentation of petition.

8. Every petition or application under the Act shall be presented to the Court in person or through an Advocate or a Pleader or a recognised agent.

Notice to respondent

9. (1) A notice of every petition or application under the Act shall be issued to the respondent in Form A to appear and answer the claim on a day to be therein specified;

Provided that no such notice would be necessary when the respondent appears at the time of the presentation of the petition or application.

(2) Every such notice shall be accompanied by a copy of the petition or application. The required number of copies of the petition or application shall be supplied by the petitioner or applicant at the time of its presentation in Court.

Copies for respondent.

10. Upon a petition presented by a husband for divorce on the ground of adultery, the petitioner shall make the alleged adulterer a co-respondent. The petitioner may, however, be excused from so doing on any of the following grounds with the permission of the Court :—

Petition on ground of adultery. Adulterer to be impleaded as party.

(a) That the respondent is leading the life of a prostitute and that the petitioner knows of no particular person with whom the adultery has been committed;

(b) that the name of the alleged adulterer is unknown to the petitioner although he has made due efforts to discover the same;

(c) that the alleged adulterer is dead.

11. Where a husband is charged with adultery with a named person, a true copy of the pleadings, containing such charge shall unless the Court for good cause shown otherwise directs, be served upon the person with whom adultery is alleged to have been committed, accompanied by a notice that such person is entitled, within the time therein specified, to apply for leave to intervene in the cause.

True copy of pleadings to be served on adulteress

12. (a) A respondent or a co-respondent or a woman to whom leave to intervene has been granted under these respondents rules, may file in the Court an answer to the petition.

Pleadings of respondents and intervener to be verified.

(b) Any answer which contains matters other than a simple denial of the facts stated in the petition shall be verified in respect of such matters by the respondent or co-respondent, as the case may be, in the manner required by the rules for the verification of petitions and when the respondent is husband or wife of the petitioner, the answer shall contain a declaration that there is not any collusion or connivance between the parties.

(c) Where the answer of a husband alleges adultery and prays for relief, a certified copy thereof shall be served upon the alleged adulterer, together with a notice to appear in like manner as on a petition. When in such a case no relief is claimed the alleged adulterer, shall not be made a co-respondent but a certified copy of the answer shall be served upon him together with a notice that he is entitled within the time therein specified to apply for leave to intervene in the proceedings and upon such application, he may be allowed to intervene, subject to such direction, as may then be given by the Court.

Permission of Court necessary to intervene.

13. Any person, not a party to the proceedings, may be permitted by the Court to intervene and show that the allegations made by the petitioner are contrary to facts and that the proceedings are collusive. Such permission shall not be granted unless the person seeking to intervene files an affidavit in support of his position and satisfies the Court that it is proper to give such permission. Such person shall, when he first appears in Court, file a proceeding stating his or her address for service.

Adulterer to pay whole or part of costs.

14. Whenever in any petition presented by a husband, the alleged adulterer has been made a co-respondent and the adultery has been established the Court may order the co-respondent to pay the whole or any part of the costs of the proceedings;

Provided that the co-respondent shall not be ordered to pay the petitioner's costs-

(i) if the respondent was, at the time of the adultery living apart from her husband and was leading the life of a prostitute, or

(ii) if the co-respondent had not, at the time of the adultery, reason to believe the respondent to be a married woman.

Register to be maintained.

15. Every Court shall maintain a register in which the details regarding petitions shall be entered and it shall conform to Civil Register No. III maintained for Divorce and Matrimonial cases.

Forms.

16. The forms given in the Appendix to these rules may, with necessary modifications, be used in the proceedings under the Act.

(High Court Notification No. 271-Genl/XXVII-19, dated the 22nd November, 1956).

APPENDIX

Form A (Rule 5.)

In the District Court at________________________________

Matrimonial and Divorce Jurisdiction

Case No. ________________ Date of Institution___________

____ Petitioner.

Versus

____ Respondent.

____Co-respondent.

To

____

__________________________________.

Whereas _____________________ has presented a petition/ applicaton against you for______________________ under section __________of the Hindu Marriage Act, 1955. (No. 25 of 1955). (A copy of the said petition/application is sent herewith), you are hereby summoned to appear in this Court on the____________________at 10 o'clock in the forenoon to answer the said petition/application, either in person or by recognised agent duly instructed and able to answer all material questions relating to the case, or who shall be accompanied by some other person able to answer all such questions or by an Advocate or Pleader similarly instructed or accompanied and you are directed to produce on that day all documents upon which you intend to rely in support of your defence. You may file an answer to the petition/application on the date mentioned above.

You are further informed that in default of your appearance on the day and in the manner above-mentioned the petition/application will be heard and determined in your absence.

Given under my hand and the seal of this Court, this __________________ day of_________ , Nineteen hundred and __

Dated ______________________

Sd.________________________

District Judge

at_________________________

Note:- Hours of attendance at the Court are from 10 A. M. till 4 P.M.

Form B

In the District Court at ____________________________

______________ ____________________________Petitioner

.

Versus

____Respondent.

Petition for restitution of conjugal rights under section 9 of the Hindu Marriage Act, 1955. (No. 25 of 1955)

The petitioner prays as follows :—

1. A marriage was solemnised between the parties on___________ at ___________________________.
An extract from the Hindu Marriage Register ________________________________ is filed here-
An affidavit, duly attested,
with.

2. The status and place of residence of the parties to the Marriage before the marriage and at the time of filing the petition were as follows :—

	Husband		Wife	
	Status	Place of residence	Status	Place of residence
i. Before marriage ii. At the time of filing the petition.				

(Whether a part is a Hindu by religion or not is a part of his or her status).

3. (In this paragraph particulars and place(s) of cohabitation as husband and wife and the children from the marriage, if any, may be given. The date and place of birth and name and sex of each child and the fact whether alive or dead should also be stated).

____

____

4. The respondent has, without reasonable excuse, withdrawn from the society of the petitioner with effect from_________ (cause of the estrangement, as known to the petitioner may be stated).

5. The petition is not presented in collusion with the respondent.

6. There has not been any unnecessary or improper delay in filing this petition.

7. There is no other legal ground why relief should not be granted.

8. There has not been any previous proceeding with regard to the marriage by or on behalf of any party.

Or

There has been the following previous proceedings with regard to the marriage by or on behalf of the parties:-

Serial No.	Name of parties	Nature of proceedings with section of the Act	Number and year of the case	Name and location of Court	Result
i. ii. iii. iv.					

9. The marriage was solemnised . within the
The husband and wife reside .local limits
The husband and wife last resided together
of the ordinary original civil jurisdiction of this Court.

10. The petitioner prays for a decree for restitution of conjugal rights against the respondent.

Sd.____________________
Petitioner.

Verification.

The above named petitioner states on selemn affirmation that paras 1 to_________ of the petition are true to the best of the petitioner's information and belief.

Verified at ______________ (Place.)

Sd.______________________

Petitioner.

Dated______________

Form C

In the District Court at __________________________________.

____Petitioner.

Versus

____Respondent.

____Co-Respondent.

Petition for judicial separation under section 10
of the Hindu Marriage Act, 1955
(No. 25 of 1955)

The petitioner prays as follows :—

1. A marriage was solemnised between the parties on______________ at_____________.___________ _________ An extract from the An affidavit, duly attested.

Hindu Marriage Register _________________________ is filed herewith.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows :

	Husband		Wife	
	Status	Place of residence	Status	Place of residence
i. Before marriage ii. At the time of filing the petition.				

(Whether a party is a Hindu by religion or not is a part of his or her status).

3. (In this paragraph particulars and place(s) of co-habitation as husband and wife and the children from the marriage, if any, may be given. The date and place of birth and name and sex of each child and the fact whether alive or dead should also be stated). ______________

____

4. The respondent has _____________ (any one or more of the grounds specified in section 10 may be pleaded here. The matrimonial offences charged should be set in separate paragraphs, with times and places of their alleged commission. The facts on which the claim to relief is founded should be stated as distinctly as the nature of the case permits. If adultery is pleaded, the petitioner should give particulars, as nearly as he can of the acts of adultery alleged to have been committed.)

5. [(Where the ground of petition is the ground specified in clause (f) of section 10(1)]. The petitioner has not in any manner been accessory to or connived at or condoned the act (s) complained of.

6. (Where the ground of petition is cruelty). The petitioner has not in any manner condoned the cruelty.

7. The petition is not presented in collusion with the respondent.

8. There has not been any unnecessary or improper delay in filing this petition.

9. There is no other legal ground why the relief should not be granted.

10. There has not been any previous proceedings with regard to the marriage, by or on behalf of any party.

Or

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties :—

Serial No.	Name of parties	Nature of proceedings with section of the Act	Number and year of the case	Name and location of Court	Result
i. ii. iii. iv.					

11. The marriage was solemnised ______ within the
The husband and wife reside
The husband and wife last resided together

local limits of the ordinary original civil jurisdiction of this Court.

12. The petitioner therefore prays for a decree for judicial separation against the respondent.

Sd. ____________________
Petitioner.

Verification.

The above-named petitioner states on solemn affirmation that paras 1 to _____________of the petition are true to the best of the petitioner's information and belief.

Verified at ________________ (Place).

Date ________________

Sd. ______________________
Petitioner.

Form D

In the District Court at____________________________________

_________________________________Petitioner,
Versus
_______________________________Respondent.

Petition for a decree of nullity of marriage
under section 11 of the Hindu Marriage
Act, 1955 (No. 25 of 1955)

The petitioner prays as follows :

1. A marriage was solemnised between the parties after the commencement of the Hindu Marriage Act on__________ at __________. An extract from the Hindu Marriage Register/Affidavit is filed herewith.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows:-

	Husband		Wife	
	Status	Place of residence	Status	Place of residence
i. Before marriage				
ii. At the time of filing the petition.				

(Whether a party is a Hindu by religion or not is a part of his or her status).

3. (In this paragraph particulars and place(s) of co-habitation as husband and wife and the children from the marriage, if any, may be given. The date and place of birth and name and sex of each child and the fact whether alive or dead should also be stated).____________________________

____

4. The respondent had a spouse living at the time of the marriage.

Or

The parties are within the degrees of prohibited relationship and there is no custom or usage governing each of them which permits of a marriage between the two.

Or

The parties are sapindas of each other and there is no custom or usage governing each of them which permits of a marriage between the two.

(One or more of the above grounds may be pleaded and portions which are not applicable should be scored out. Facts on which the claim to relief is founded should be stated as distinctly as the nature of the case permits.

The matrimonial offences charged should be set in separate paragraphs with times and places of their alleged commission).

5. The petition is not presented in collusion with the respondent.

6. There has not been any unnecessary or improper delay in filing the petition.

7. There is no other legal ground why the relief should not be granted.

8. There has not been any previous proceeding with regard to the marriage by or on behalf of any party.

Or

There have been the following previous proceedings with regard to the marriage by or behalf of the parties :—

Serial No.	Name of parties	Nature of proceedings with section of the Act	Number and year of the case	Name and location of Court	Result
i. ii. iii. iv.					

9. The marriage was solemnised within the
parties reside
parties last resided together
local limits of the ordinary original civil jurisdiction of this Court.

10. The petitioner therefore prays that the marriage solemnised between the parties being null and void may be so declared by the court by a decree of nullity.

Sd.________________

Petitioner.

Verification.

The above-named petitioner states on solemn affirmation that paras 1 to ____ of the petition are true to the best of the petitioner's information and belief.

Verified at _____________ (Place).
Dated ___________________ Sd. ____________
Petitioner.

Form E

In the District Court at_________________________________

____Petitioner.
Versus
____Respondent.

Petition for the annulment of a marriage under section 12 of the Hindu Marriage Act, 1955 (No. 25 of 1955)

The petitioner prays as follows :—

1. A marriage was solemnised between the parties On______________at________________. An extract from the Hindu Marriage Register / An affidavit, duly attested, is filed herewith.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows :—

	Husband		Wife	
	Status	Place of residence	Status	Place of residence
i. Before marriage ii. At the time of filing the petition.				

(Whether a party is a Hindu by religion or not is a part of his or her status).

3.(In this paragraph particulars and place(s) of cohabitation as husband and wife and the children from the marriage, if any, may be given. The date and place of birth and name and sex of each child and the fact whether alive or dead should also be stated).______

____

4. The respondent was impotent at the time of the marriage and continued to be so until the institution of these proceedings.

Or

The respondent was an idiot/lunatic at the time of marriage.

Or

The consent of the petitioner/guardian of the petitioner was obtained by force/fraud and the petition is presented within one year after the force has ceased to operate/fraud had been discovered and the petitioner has not with his/her full consent, lived with the other party to the marriage as husband/wife after the force has ceased to operate/fraud had been discovered

Or

the respondent was at the time of the marriage pregnant by some person other than the petitioner and the petitioner was at the time of marriage ignorant of this fact and the proceedings have been instituted within one year from the date of the marriage and marital intercourse with the consent of the petitioner has not taken place since the discovery by the petitioner of the existence of respondent's pregnancy by some person other than the petitioner.

(One or more of the above grounds may be pleaded and the portions which are not applicable should be scored out. Facts on which the claim to relief is founded uhould be stated as distinctly as the nature of the case permits. The matrimonial offences charged should be set in separate paragraphs with the times and places of their alleged commission).

5. The petition is not instituted in collusion with the respondent.

6. There has not been any unnecessary or improper delay in filing this petition.

7. There is no other legal ground why the relief should not be granted.

8. There has not been any previous proceeding with regard to the marriage by or on behalf of any party.

Or

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties :—

Serial No.	Name of parties	Nature of proceedings with section of the Act	Number and year of the case	Name and location of Court	Result
i. ii. iii. iv.					

9. The marriage was solemnised ______ within the
The parties reside ______.
The parties last resided together
limits of the ordinary original civil jurisdiction of this Court.

10. The petitioner therefore prays that the marriage between the parties being voidable may be annulled by the court by a decree of nullity.

Sd.______________________

Petitioner.

Verification.

The above-named petitioner states on solemn affirmation that paras 1 to__________ petition are true to the best of the petitioner's information and belief.

Verified at _________________ (Place).

Dated_________________.

Sd. _______________

Petitioner.

Form F

In the District Court at ________________________________

____Petitioner.

Versus

____Respondent.

____________________________________ Co-Respondent.

Petition for dissolution of marriage by a decree of divorce under section 13 of the Hindu Marriage Act, 1955 (No. 25 of 1955).

The petitioner prays as follows :—

1. A marriage was solemnised between the parties on ______________ at _____________. An exatract from the Hindu Marriage Register _____________________________ An affidavit, duly attested, is filed herewith.

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows:-

	Husband		Wife	
	Status	Place of residence	Status	Place of residence
i. Before marriage				
ii. At the time of filing the petition.				

(Whether a party is a Hindu by religion or not is a part of his or her status).

3. (In this paragraph particulars and place(s) of co-habitation as husband and wife and the children from the marriage, if any, may be given. The date and place of birth and name and sex of each child and the fact whether alive or dead should also be stated). __________________

---

4. The respondent____________________________________

(One or more of the grounds specified in section 13 may be pleaded here. The facts on which the claim to relief is founded should be stated as distinctly as the nature of the case permits. If adultery is pleaded the petitioner should give particulars as nearly as he can, of the acts of adultery alleged to have been committed. The matrimonial offences charged should be set in separate paragraphs, with the times and places of their alleged commission. If the ground specified in clause (viii) of section 13(1) is pleaded the petition should be accompanied by an affidavit of the petitioner to the effect that he or she has not resumed co-habitation for a period of two years or upwards of the passing of the decree for judicial separation).

5. (Where the ground of petition is the ground specified in clause (i) of sub-section (1) of section 13). The petitioner has not in any manner been accessory to or connived at or condoned the act (s) complained of.

6. (Where the ground of petition is cruelty). The petitioner has not in any manner condoned the cruelty.

7. The petition is not presented in collusion with the respondent.

8. There has not been any unnecessary or improper delay in filing this petition.

9. There is no other legal ground why the relief should not be granted.

10. There has not been any previous proceeding with regard to the marriage by or on behalf of any party.

Or

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties:—

Serial No.	Name of parties	Nature of proceedings with section of the Act	Number and year of the case	Name and location of court	Result
i. ii. iii. iv.					

11. The marriage was solemnised
The husband and wife reside.
The husband and wife last resided together within the limits of the ordinary original civil jurisdiction of this Court.

12. The petitioner therefore prays that the marriage between the petitioner and the respondent may be dissolved by a decree of divorce.

Sd.________________
Petitioner.

Verification.

The above named petitioner states on solemn affirmation that paras 1 to ______________ of the petition are true to the best of the petitioner's information and belief.

Verified at ____________________ (Place).
Dated ________________________ Sd.______________________
Petitioner.

Form G

In the District Court at ____________________________________

____Applicant.

Versus

____Respondent.

Application under section 14 of the Hindu Marriage Act, 1955. (No. 25 of 1955) praying that a petition of divorce may be allowed to be presented before three years have elapsed since the date of marriage

The applicant prays as under :—

1. A marriage was solemnised between the parties

on__________________at_______________.An extract from
An affidavit, duly
the Hindu Marriage Register is filed herewith.
attested,

2. The status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows :—

	Husband		Wife	
	Status	Place of residence	Status	Place of residence
i. Before marriage ii. At the time of filing the petition.				

3. (In this paragraph particulars and place(s) of co-habitation of husband and wife and the children from the marriage, if any, may be given. The date and place of

birth and name and sex of each child and the fact whether alive or dead should also be stated).____________________

____

4. This is a case of exceptional hardship to the petitioner as ____________________________.

exceptional depravity on the part of the respondent __________(state as distinctly as the nature of the case permits the particulars about the exceptional hardship or depravity, as the case may be).

5. The marriage was solemnised / The parties reside / The parties last resided together within the ordinary original civil jurisdiction of this Court.

6. The applicant therefore prays that he / she may be allowed to present a petition for divorce before three years have elapsed since the date of marriage.

Sd. ________________

Applicant.

Verification.

The above named applicant states on solemn affirmation that paras 1 to__________ of the petition are true to the best of the Applicant's information and belief.

Verified at _____________ (Place.)

Dated _____________

Sd.________________

Applicant.

Form H

In the District Court at ....
.... Applicant.

Versus

....Respondent.

Application for maintenance pendente lite and for expenses of proceedings under section 24 of the Hindu Marriage Act, 1955. (Act No. 25 of 1955.)

The applicant prays as follows:-

1. A proceeding for ________________________under section ____________________ of the Hindu Marriage Act, 1955, is pending between the parties in this Court. The particulars are as follows :—

Number and year of case	Name of parties	Next date of hearing	Remarks.

2. The applicant owns no other movable or immovable property and has no other source of income except......................... (Give full particulars of the petitioners property and income).

3. The applicant has no independent income sufficient for his/her support and the necessary expenses of the proceeding.

4. The respondent has sources of income and owns property mentioned below:-

.... (Give full particulars about respondent's income and property).

5. The petitioner prays that the respondent should be ordered to pay a sum of Rs.________________as the petitioner's expenses of the proceeding and a sum of Rs. __________monthly for petitioner's maintenance during the proceeding.

Sd.________________

Applicant.

Verification.

The above named applicant states on solemn affirmation that paras 1 to_____________of the petition are true to the best of the petitioner's information and belief.

Verified at _______________ (Place)

Dated ____________

Sd._____________________

Applicant.

Form I

In the District Court at______________________________________

____Applicant.

Versus

____Respondent.

Application for permanent alimony and maintenance under section 25 of the Hindu Marriage Act, 1955. (No. 25 of 1955).

The applicant prays as follows:—

1. A proceeding between the parties for __________________ under section ________________ of the Hindu Marriage Act,

1955 is pending in / was decided by this Court, particulars of which are given below:-

Number and year case	Names of parties	Date of decision next hearing	Reamrks

2. The applicant owns no other movable or immovable property and has no other source of income except................................(Give full particulars about respondent's income and property).

3. The respondent has sources of income and owns property mentioned below:—

(Give full particulars about respondent's income and property).

4. The applicant has not remarried and has not been guilty of any conduct which would disentitle him/her to receive maintenance from the respondent.

5. The applicant prays that having regard to the incomes of the parties and their conduct, the respondent may be ordered to pay to the petitioner for his/her maintenance and support until death or remarriage a gross/. monthly/periodical sum of Rs. ____________ and (score out if not necessary) such payment may be secured by a charge on the immovable property of the respondent.

Sd.____________________

Applicant.

Verification.

The above named applicant states on solemn affirmation that paras 1 to ________of the petition are true to the best of the applicant's information and belief.

Verified at ____________________ (Place.)

Dated ____________________

Sd.______________________

Applicant.

CHAPTER 2.

GUARDIANS AND WARDS

PART A.—GENERAL.

1. Under section 4-A (1) of the Guardians and Wards Act, 1890, as amended by Act IV of 1926, the High Court may, by general or special order, empower any officer exercising original Civil Jurisdiction subordinate to a District Court, or authorise the Judge of any District Court to empower any such officer subordinate to him, to dispose of any proceedings under this Act transferred to such officer under the provisions of this section. The Hon'ble Judges have decided that with a few exceptions all the work under the Guardians and Wards Act should be entrusted to a Special 1st Class Sub-Judge in each district. For Subordinate Judges invested with such powers, see Volume I, Chapter 20,

Sub-Judges empowered to try cases under the Act.

2. In appointing guardians, Courts should work on the principle that the interest of the minor is the main consideration (section 7). Very often it will be found that an application for the appointment of a guardian has been made in the interest not of the minor but of the applicant, especially when the application is for the guardianship of an unmarried girl.

Minors interest is the main consideration in appointing guardians.

3. It does not follow that because an application is made for the appointment of a guardian, one must necessarily be appointed. Every application for guardianship should be laid at once before the Judge, who should only issue notice if he is satisfied after examination of the applicant (except when the applicant is the Collector)' that there is ground for proceedings on the application under section 11 of the Act, and even then, he should exercise a careful discretion ac to the persons to whom notice should issue {section 11(1) (a) (iv)1. It should also be noted that in certain cases a guardian cannot be appointed under the Act (section 19}.

Discretion of Court in Appointing a Guardian and issuing notices or application.

In appointing a guardian the Courts shall be guided by the provisions of section 17.

4. If any application is rejected in limine the Court must give its reasons for rejection as an appeal lies under section 47 (a) of the Act.

Reasons for Rejecting an application *in-Limine* should be recorded.

No need to appoint a guardian of a decease military servant for purposes pension.

5. Courts should not appoint a guardian, under the Guardians and Wards Act, merely in order to enable the heir of a man who has died in military service to draw a pension. A certificate signed by a Revenue Officer of or above the rank of a Naib-Tahsildar is accepted as sufficient authority for the payment of such pensions to de factor guardians.

Petty cases proceedings should terminate appointment guardian.

6. By Rule 8 of the rules framed under the Guardians and Wards Act, 1890, accounts are required (vide Part B of this Chapter) from guardians only when the annual income of the estate is likely to exceed Rs. 500 and in other cases only if the Court thinks fit to order. Having regard to the petty sums involved in the vast majority of cases,it should be the rule and not the exception that the latter class of proceedings should terminate with the appointment of the guardian. Continuous control is desirable only in the case of large properties.

Forms of Bank account for current expenses.

7. Attention is drawn to rule 13 of the rules framed under the Guardians and Wards Act 1890,—(vide Part B of this Chapter). With respect to money required for the current current expenses of the estate and of the ward's maintenance, which is not to be invested, that rule lays down no restriction as to the form of account, i.e., current account, saving account or fixed deposit account in which it may be placed. Such money should be placed in such form of Bank account as will be to the best interest of the minor.

Restrictions regarding withdrawal form Bank account.

8. When permitting the opening of an account in *a* Bank, the Court may direct that no withdrawal should be made by the guardian from the account except under the orders of the Court. If such restrictions are imposed on the powers of a guardian, they should be embodied in the guardianship certificate; or if a separate order to this effect is recorded, an attested copy of it should be forwarded to the Bank for registration along with an attested copy of the guardianship certificate. The Court should see in particular that the amounts kept in the Bank are no larger than are sufficient for current expenses and that all surplus money is invested in accordance with rule 13 of the rules framed -tinder the Guardians and Wards Act, 1890.—(vide Part B, of this Chapter.)

9. In case falling under Rule 14, money required for in current expenses must be deposited in the treasury and the surplus money invested in Government Promissory Notes as laid down therein.

Cases in which money for current expenses are to be deposited in treasury.

10. All pass books, Government Promissory Notes and Post Office Cash Certificates relating to Accounts of minors should be kept by their guardians and inspected by the Court at least once a year.

Pass books by etc. to be kept guardian.

PART B.—RULES.

(Rules made by *the High* Court with the approval of the *State Government under the* power *conferred* by *section* 50 *sub-section (1), clause (j),* of *the Guardians and Wards Act,* 1890, for *the guidance* of Courts in *carrying* out *the purposes* of the *Act).*

Application for appointment of a guardian shall be in from A.

1. Applications for the appointment of a guardian of the person or property, or both, of a minor under section 10 of the Act shall, subject to such variation as the circumstances of each case may reqiure, be in Form A annexed to these rules.

Notice required by section 11 shall be in form B.

2. The notice required by section 11 of the Act shall be in Form B annexed to these rules.

Form and time for filing statement of property and debts.

3. T he statement showing the property and the debts of a ward, as required by clause (b) of section 34 of the Act, shall be in Form C annexed to these rules.

Further statements when to be put in.

Only one such statement shall ordinarily be exhibited by the guardian, on or before such date, subsequent to the assumption of guardianship, as the Court may fix, unless for any special reason, to be recorded in writing the Court shall subsequently think it necessary to call for another statement or statements. The guardian shall, however, inform the Court of any subsequent accrual of property to the minor, e.g., by inheritance, etc., and submit any statement with respect to it that may be called for. The Court shall carefully examine the statements, submitted under this rule and pass any further orders that may appear necessary for the proper management of the property.

Guardian Certificate points to be noted thereon.

4. When a guardian is appointed under the Act, he should be furnished with a certificate of guardianship, in Form F, and his attention should be drawn in particular to the provisions of sections 26. 27, 23, 29, 32. 33, 35, 36, 39, 44 and 45 of the Act which shall be printed in full on the back of the said certificate. The certificate shall also state any special restrictions imposed by the Court on the powers of the guardian at the time of his appointment.

Bonds required from guardian their forms and amount.

5. Except in cases in which, for reasons to be recorded writing, the Court directs otherwise, every guardian of property appointed by the Court (other than the

Collector of the District) shall be required to execute a bond, with or without a surety or sureties as the Court may think fit to direct, in a sum not less than the total estimated value of the said certificate. The certificate shall also state any special restrictions. Bonds shall be in Form D annexed to these rules with such variations or modifications as will suit the circumstances of each case.

Time to be fixed for filing bonds. Allowance of Guardians and other orders.

6. Orders in respect of (a) the execution, or otherwise, of such bond, and (b) the amount, if any, of the allowance to be paid to the guardian, shall be made by the Court at the time of appointing the guardian. When a bond is required the Court shall fix the time within which such bond is to be furnished and the order of appointment shall be made conditional on furnishing the bond.

Entry of application in register No. 2. Cases in which periodical accounts are to be put in to be entered in Register E.

7. (1) Every application for appointment of a guardian shall be entered in Civil Miscellaneous Register No. 2.

(ii) Every case, in which a guardian of property is appointed and the guardian is directed to file accounts periodically, shall be entered in register No. XXVI (Form E) and the particulars prescribed therein shall be entered from time to time as soon as orders are passed by the Court, or the particulars are available. Cases should be entered in this register chronologically and an alphabetical index thereof given in the beginnig of the register.

Accounts should be scrutinized once a year in cases of large income.

8. When the annual income of the ward's estate appears likely to exceed Rs. 500, and in other cases if the Court thinks fit to so order, the guardian should be directed to submit to the Court once a year and on a fixed date an account of the income and expenditure of the estate together with a list of the property, movable or immovable, sold or purchased, and of the amounts due to and from the ward.

Such account shall be scrutinised by the Judge, who should certify that he had done so and should record such remarks thereon as may be necessary.

Such cases to be treated as pending-minor to be produced before Court in such cases.

9. When a guardian is required to submit yearly accounts to the Court, the case should, until the ward concerned attains his majority, be treated as pending and the ward should be produced before the Court on the dates on

which returns have to be furnished by the guardian, such dates to be reckoned as dates of hearing and entered as such in the cause book of the Court.

Notice of application under sections 28 and 29 to be given to persons affected by it.

10. When an application is made by a guardian for any of the purposes referred to in sections 28 and 29 of the Act, the Court should, before disposing of it, cause notice thereof to be given to such persons, whether relatives of the ward or otherwise connected with him, as the Court may consider to be affected by the application.

Annual Inspection of Wards by Courts.

11. In the absence of sufficient reason to the contrary, all male wards should be produced before the Court once a year, and the Court should, so far as is possible, examine their physical, intellectual and moral conditions, and ask them whether they have any remarks to make on the subject of the management of their estates. To facilitate this arrangement the Court should maintain a list of all such wards.

Inspection of statements and accounts filed by the guardian.

12. All statements and accounts submitted by a guardian should be kept with the records of the case to which they relate; and may, with the permission of the Court, be inspected by any person legitimately interested in the same, on payment of the ordinary inspection fee. Such statement and accounts and relevant extracts from Audit Notes and objections together with annotated copies of the same and relevant correspondence on the subject, should be kept on part 'A' of the records.

Opening of accounts in approved banks in the name of minors for current expenses. Investment of surplus money in Government securities.

13. Where the Court deems is necessary to direct the guardian to open an account in a bank, the account shall be in the name of the minor through his guardian in the Post Office Savings Bank, or in the State Bank of India, or in any other bank approved by the High Court. If after payment of the current expenses of the estate and of the ward's maintenance, there should be any balance, such balance should be invested by the guardian in Government Promissory Notes, Post Office Cash Certificates, or in any other securities mentioned in clauses (a) (b) (c) and *(d)* of section 20 of the Indian Trusts Act.

Note 1.—A list of banks approved by the High Court is supplied to subordinate courts and additions and alterations made therein are communicated from time to time.

Note 2. In order to enable a bank to open an account in the name of a minor through his guardian, an attested copy of the guardianship certificate should be supplied to it for registration.

14. (1) In cases in which the ward's estate is under the management of Government, in the person of the District Judge, the Collector or other Government officer, surplus moneys may be invested in Government Promissory Notes, purchased through and held in the safe custody of the Reserve Bank of India, in accordance with the procedure laid down in paragraph 110 (b) and note 1 to paragraph 101 of Chapter IX of the Government Securities Manual 3rd adition. The income of the estate required for current expenses of the management of the estate, the maintenance, and education of the ward, should be deposited in the treasury.

(ii) The deposit of money in a private bank in the name of the District Jude or other Government officer, as a guardian of a ward's estate, is prohibited,—Vide rule 7 *et seq,* section V of the Treasury Rules (Punjab).

Court may pass order for proper education of the ward in certain cases.

15. When it appears to the Court, at the annual inspection of the ward or otherwise, that orders are required as to the education of the ward, the Court should pass such orders as appear to suit the case, regard being had to the present position and future prospects of the ward's family and the intellectual capabilities of the ward himself.

Management of Ward's estates to be noted in annual report.

16. The management of wards' estates should be specially noted in the Annual Civil Report submitted by each District Judge and detailed mention should be made of the main facts relating to the more important estates.

FORM A

[In the Court of] *In the matter of guardianship of ..son of ..caste ..resident of ..Minor [Court fee]*

a	The name, sex, religion, date of birth, and ordinary residence of the minor.	
b	Where the minor is a female. Whether she is married, and, if so, the name and age of her husband	
c	The nature, situation, and approximate value of the property, if any, of the minor. (For details see schedule on reverse)	
d	The name and residence of the person having the custoy or possession of the person or property of the minor	
e	What near relations the minor has, and where they reside	
f	Whether a guardian of the person or property or both of the minor, has been appointed by any person entitled, or claiming to be entitled by the law to which the minor is subject to make such an appointment	
g	Whether an application has at any time been made to the Court to any other Court, with respect to the guardianship of the person or property, or both, of the minor and if so, when, to what Court and with what result.	
h	Whether the application is for the appointment or declaration of a guardian of the person of the minor or of his property, or both.	
i	Where the application is to appoint a guardian, the qualifications of the proposed guardian.	
j	Where the application is to declare a person to be a guardian, the grounds on which that person claims.	
k	The causes which have led to the	
l	Such other particulars if any, as may be presented, or as the nature of the application renders it necessary to state.	

Signature of petitioner or of a person duly authorised by him in this behalf.

The above particulars are true to the knowledge of the person making them except as to matters stated on information and belief, and as to those mattershe believes them to be true.

1. The guardian proposed in the above application, do hereby declare that I am willing to act as such.

Attested by (i)

Signature of the person verifying

(ii)

Signature of the proposed guardian.

SCHEDULE TO FORM A.

1	2	3
Details of property belonging to ward	Value	Names of persons in present possession of the Property mentioned in column
(1)		(t)
(2)		(2)
(3)		(31
		&c

FORM B

FORM OF NOTICE UNDER SECTION 11 OF ACT VIII OF 1890

DISTRICT

In the Court of District Judge at

PRESENT

CASE No.__________ OF 19 .

Petitioner

Inhabitant of

Application for the (1) of a guardian to the (2) of a minor inhabitant of

Whereas the petitioner above-named has applied to be (3) the guardian of the (2) of the aforesaid minor, and the day of 19 has been fixed for the hearing of the application; notice is hereby given to (4) that if any other relative, friend, kinsman or well-wisher of the aforesaid minor desire to be appointed or declared as guardian of the (2) of the said minor, or desire to oppose the application of the petitioner aforesaid, he should appear personally in the Court on the aforesaid date, and adduce any documentary and oral evidence in support of his claim to such appointment or declaration, or in support of his opposition to the application of the petitioner aforesaid.

Given under my hand and the seal of this Court, this day of 19 .

---

(1) Appointment or declaration as the case may be.

(2) State whether to the person or the property of the minor, or to both.

(3) Appointed or declared.

(4) Name of person in case of notice under clause (a) of section 11 of the public" in case of general notice under clause (b).

FORM C

A-Statement under section 34 showing particulars in regard to immovable and movalb eproperty belonging to m
, taken over by appointed as guardina under order of the Court, dated 19.

REMARKS	MOVABLE PROPERTY					IMMOVABLE PROPERTY				
	Particulars					Period for which realizable	Profit or rent realizable	Known or supposed value (c)	How occupied (b)	Particulars (a)
	In whose custody or with whom deposited.	Cash	Value (b)	Jewels, gold and silver	Household goods or other property supposed value(a)					

(a) Here state whether land is *nahri, chahi or barani,* proprietary or occupancy, and as to building, whether *kach* storeyed or double-storeyed, etc.
(b) Here state whether cultivated through servants or relatives, or let on rent, or cultivated by tenants, and in c whether occupied by minor or family or let on rent, or hire, etc.
(c) This will assist the Court in determining the amount of security to be taken from the guardian.

FORM C-(CONCLD).

Statement showing particulars as to the debts due to, or by the estate of minor, for whose property and person has been appointed or declared guardian by order of Court, dated 19 .

Name, parentage and residence of debtor	DEBTS DUE TO THE ESTATE OF THE MINOR							DEBTS DUE BY THE ASTATE OF THE MINOR						
	Amount of debts originally advanced	Date of original advance	Date by which wholly repayable	Amount of interest or profit realizable	Date on whih realizable	Date by which limitation expires	Proof in support of debt (a)	Name, etc., of creditor	Amount received originally	Date of incurring of the debt	Interest or profit payable	Date which interest or profit payable	Date fixed for repayment of the debt	Security given for debt

(a) Whether registered or mortgaged bond or deed or book account etc.

FORM D

Form of Bond under Section 34 of Act VIII of 1890

Know all men by these presents that I (a)__________of (b) ___________of (b)_____________ in the _____________(b)_________District am held and firmly bound to (c) ______________the District Judge of _______________his successors in this office or his or their assigns in the sum of rupees ______________to be paid to the said (d)______________District Judge, to his successors in this office or to his assigns and we ________(e)___________of (e) _______in the (e)_________District and (f) ______________District are jointly and severally held and firmly bound to the said (g) _________or his successors in office or his or their assigns in the sum of Rupees ___________to be paid to the said (h)_________or his successor sin office or his or their assigns for the payment of which said sum of Rupees _____to be faithfully and truly made I the above bounden (i)_________bind myself and my heirs, executors, administrators representatives and for the payment of the said sum of rupees_____________we the above-bounden (j)___________and (k)__________bind ourselves and each of us jointly and severally and one and each of our heirs, executors, administrators and representatives

(a) Name of guardian.
(b) Parentage etc. and the residence of the guardian.
(c) Name of District Judge.
(d) Name of District Judge.
(e) (f) Name percentage etc. and residence of sureties.
(g) Name of District Judge.
(h) Name of District Judge.
(i) Name of guardian.
(j) (k) Names of sureties.

Firmly by these parents signed by ourselves and sealed with our respective seals this____________days of _________19 .

Whereas by an order of the court of the District Judge of _________made on the ______________day of __________19 under section 7 of the Guardians and Wards Act (VIII of 1890) the above-named (1) __________has subject to his entering into a bond in

(1) Name of guardian.

the same sum

rupees _________with (2) _________sureties in____________

(2) Name of sureties.

the sum of Rs.

been appointed guardian of the property movable and immovable of (3) _________minor son of (3)________and whereas the said (4)__________has agreed to enter into the above-written bond and the said (5) __________and (6)___________have agreed to enter into the above-written bond as sureties for the said (7) __________. Now the condition of the above-written bond is such that if the said (8)____________do and shall justly and truly account whenever called upon to do so for what he may receive in respect of the property of the said (9) _________and shall carefully observe, perform and obey all orders and directions of the said court of the District Judge of __________touching of

(3) Name and parentage of minor.
(4) Name of guardian.
(5) (6) Name of sureties.

(7) Name of guardian.

(8) Name of guardian.

(9) Name of minor.

concerning the estate and effects of the said minor and his property and touching and concerning all such money and estates as he the said (10)____________shall receive as such guardian as aforesaid and in all things conduct himself properly, then the above-written bond or obligation shall be void and of no effect otherwise the same shall remain in full force and virtue.

(10) Name of guardian.

Signed and sealed by the above-named.

____seal

____Names of

____guardian and sureties.

In the presence of ______________________ _____ seal.

____seal.

Register No. XXVI

FORM E

STATEMENT RELATING TO THE PROPERTY OF MINOR OF ANNUAL INCOME AND EXPENDITURE

PART I,- STATEMENT RELATING TO PROPERTY

Serial No. (with corresponding No. of Miscellaneous Register II) (a)		
Name and description of minor (b)		
Date of birth		
Name and description of the guardian of person with date of appointment (b)		
Name and description of the guardian of property with date of appointment		
Date and amount of security bond (if any) taken from guardian		
Date fixed for diling of accounts every year		
BRIEF DESCRIPTION OF THE PROPERTY OF THE MINOR AND ITS ESTIMATED VALUE	Movable Property	
	Immovable Property	
Estimated income from various sources		(a) Land (b) House property (c) Securities, etc, etc.
Remarks		

(a) Corresponding number of the case in the Miscellaneous Register should be given in red ink.

(b) Give father's name, caste and residence.

PART ii.- STATEMENT OF ACCOUNTS AND ABSTRACT OR IMPORTANT ORDERS.

ACCOUNTS				ABSTRACT OF OTHER MPORTANT ORDERS, e.g., UNDER SECTIONS 31,32,33,34,43 ETC., RELATING TO THE PERSON OR PROPERTY OF THE MINOR	
Year	Date of filing accounts	Brief statement of income, expenditure and balance	Remarks of the Judge after examination of the accounts	Date of order	Abstract of order

FORM F.

A.—FORM OF APPOINTMENT UNDER SECTION 7 OF ACT NO. VIII OF 1980.

(Guardians and Wards Act).

Whereas this Court has, under the provisions of section 7 of Act No. VIII of 1890, been pleased to appoint you, (or to declare you to be) guardian of *(the* property or *the person and* property) of during the period of his minority, to wit, till the day of the month of 19 , subject to the provisions contained in the Act and the rules framed thereunder and particularly those provisions contained in section 26, 27, 28, 29, 32, 33, 35, 36, 39, 44 and 45 of the Act aforesaid (which are printed on the back of this certificate) you are hereby authorised to take charge of the property of the minor in trust, to collect and pay all just debts, claims and liabilities due to or by the estate of the minor, to institute or defend suits connected with that estate and generally to do and perform all acts which may be necessary to the due discharge of the trust vested in you, provided always that you shall not mortgage, or charge or transfer by sale, gift, exchange or otherwise, any part of the immovable property of your ward, or lease any part of that property for a term exceeding five years, or for any term extending more than one year beyond the date on which your ward will cease to be a minor, without the express sanction of this Court previously obtained : and that you shall keep regular accounts of your receipts and disbursements, with all vouchers and other documents necessary to establish their correctness, and shall carry out all orders issued to you by this Court under the aforesaid Act.

Given under my hand and the seal of the Court this ____________ day of _________ 19 .

Extracts from the Guardians and Wards Act.

Removal of the ward from jurisdiction.

26. (1) A guardian of the person appointed or declared by the Court, unless he is the Collector or is a guardian appointed by win or other instrument, shall not without the leave of the Court by which he was

appointed or declared, remove the ward from the limits of its jurisdiction except for such purposes as may be prescribed.

(2) The leave granted by the Court under sub-section (1) may be special or general, and may be defined by the order granting it.

Duties of guardian of property.

27. A guardian of the property of a ward is bound to deal therewith as carefully as a man of ordinary would deal with it if it were his own, and, subject to the provisions of this chapter, he may do all acts which are reasonable and proper for the realisation, protection or benefit of the property.

Powers of testamentary guardian.

28. Where a guardian has been appointed by will or other instrument, his power to mortgage or charge, or transfer by sale, gift, exchange or otherwise, immovable property belonging to his ward, is subject to any restriction which may be imposed by the instrument, unless he has under this Act been declared guardian and the Court which made the declaration permits him by an order in writing, notwithstanding the restriction, to dispose of any immovable property specified in the order in a manner permitted by the order.

Limitation of powers of guardian of property appointed or declared by the Court..

29. Where a person other than a Collector, or than a guardian appointed by will or other instrument, has been appointed or declared by the Court to be guardian of the property property of a ward, he shall not, without the previous or permission of the Court,-

(a) Mortgage or charge, or transfer by sale, gift, exchange or otherwise, any part of the immovable property of his ward,

or-

(b) lease any part of that property for a term exceeding five years or for any term exceeding more than one year beyond the date on which the ward will cease to be a minor.

Variation of power of guardian of property appointed or declared by the Court.

32. Where a guardian of the property of a ward has been appointed or declared by the Court, and such guardian is not the Collector, the Court may from time to time, by order define, restrict, or extend his powers with respect to the property of the ward, in such manner

and to such extent as it may consider to be for the advantage of the ward and consistent with the law to which the ward is subject.

Right of guardian so appointed or declared to apply to the Court for opinion in management of property of ward.

(1) A guardian appointed or declared by the Court may apply by petition to the Court which appointed or declared him, for its opinion, advice, or direction on any present question respecting the management or administration of the property of his ward.

(2) If the Court considers the question to be proper for summary disposal, it shall cause a copy of the petition to be served on, and the hearing thereof may be attended by, such of the persons interested in the application as the Court thinks fit.

(3) The guardian stating in good faith the facts in the petition, and acting upon the opinion, advice or direction given by the Court, shall be deemed, so far as regards his own responsibility, to have performed his duty as guardian in the subject-matter of the application.

Suit against guardian where administration bond was taken.

35. Where a guardian appointed or declared by the Court has given a bond duly to account for what he may receive in respect of the property of his ward, the Court may, on application made by petition, and on being satisfied that the engagement of the bond has not been kept, and upon such terms as to security, or providing that any money received be paid into the Court or otherwise as the Court thinks fit, assign the bond to some proper person, who shall thereupon be entitled to sue on the bond in his own name as if the bond had been originally given to him instead of the Judge of the Court, and shall be entitled to recover thereon, as trustee for the ward, in respect of any breach thereof.

Suit against guardian where administration bond was not taken.

36. (1) Where a guardian appointed or declared by the Court has not given a bond as aforesaid, any person, with the leave of the Court, may, as next friend, at any time during the continuance of the minority of the ward, and upon such terms as aforesaid, institute a suit against the guardian, or, in case of his death, against the representative, for an account of what the guardian has received in respect of the property of the ward, and may recover in the suit, as trustee for the ward, such amount

as may be found to be payable by the guardian or his representative, as the case may be.

(2) The provisions of sub-section (1) shall, so far as they relate to a suit against a guardian, be subject to the provisions of section 440 of the Code of Civil Procedure as amended by this Act.

Removal of guardian.

39. The Court may, on the application of any person interested, or of its own motion, remove a guardian appointed or declared by the Court, or a guardian appointed by will or other instrument, for any of the following causes namely :—

(a) for abuse of his trust ;

(b) for continued failure to perform the duties of his trust ;

(c) for incapacity to perform the duties of his trust ;

(d) for ill-treatment, or neglect to take proper care of his ward ;

(e) for contumacious disregard of any provision of this Act or of any order of the Court ;

(f) for conviction of an offence implying, in the opinion of the Court, a defect of character which unfits him to be the guardian of his ward ;

(g) for having an interest adverse to the faithful performance of his duties ;

(h) for ceasing to reside within the local limits of the jurisdiction of the Court ;

(i) in the case of a guardian of the property, for bankruptcy or insolvency ;

(j) by reason of the guardianship of the guardian ceasing, or being liable to cease, under the law to which the minor is subject ;

Provided that a guardian appointed by will or other instrument, whether he has been declared under this Act or not, shall not be removed-

(a) for the cause mentioned in *(g),* unless the adverse interest accrued after the death of the person who appointed him or it is shown that that person made and maintained the appointment in ignorance of the existence of the adverse interest ; or

(b) for the cause mentioned in clause (h), unless such guardian has taken up such a residence as, in the opinion of the Court, renders it impracticable for him to discharge the functions of guardian.

Penalty for removal of word from jurisdiction.

44. If, for the purpose or with the effect of preventing the Court from exercising its authority with respect a ward, a guardian appointed or declared by the Court removes the ward from the limits of the jurisdiction of the Court, in contravention of the provisions of section 26, he shall be liable, by order of the Court, to fine not exceeding one thousand rupees, or to imprisonment in the civil jail for a term which may extend to six months.

Penalty for contumacy.

45. (1) In the following cases, namely,—

(a) if a person having the custody of a minor fails to produce him or cause him to be produced in compliance with a direction under section 12, sub-section (1), or to do his utmost to compel the minor return to the custody of his guardian in obedience to an order under section 25, sub-section (1) ; or

(b) if a guardian appointed or declared by the Court fails to deliver to the Court, within the time allowed by or under clause (b) of section 34, a statement required under that clause, or to exhibit accounts in compliance with the requisition under clause (c) of that section, or to pay into the Court the balance due from him on those accounts in compliance with a requisition under clause (d) of that section ; or

(c) if a person who has ceased to be a guardian, or the representative of such a person, fails to deliver any property or accounts in compliance with a requisition under section 41, sub-section (3) ,

the person, guardian or representative, as the case may be, shall be liable, by order of the Court, to fine not exceeding one hundred rupees, and in case of recusancy to further fine not exceeding ten rupees, for each day after the first during which the default continues, and not exceeding five hundred rupees in the aggregate, and to detention in the civil jail until he undertakes to produce the minor or cause him to be produced, or to compel his return, or to deliver the statement, or to exhibit the accounts, or to pay the balance, or to deliver the property or accounts, as the case may be.

(2) If a person who has been released from detention on giving an undertaking under sub-section (1) fails to carry out the undertaking within the time allowed by the Court, the Court may cause him to be arrested and recommitted to the civil jail.

of the property of of *(place)*
, a minor subject to the jurisdiction of this Court under Act VIII of 1890, was granted by me to of *(place)* he having undertaken to administer the same on behalf of the above-named.

2. I do further make known that the said has been appointed guardian, under Act VIII of 1890, of the person of the above, named minor.

Given under my hand and the seal of the Court, this day of 19 .

Judge of the *District.*

NOTE.----The holder of this certificate is empowered, Act VIII of 1890, to exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a minor and may collect and pay all just claims, debts or liabilities due to or by the estates : but he has not power to sell or mortgage any immovable property, or to grant a lease thereof for any period exceeding five years without an order of the court previously obtained.

Clause 2 of the certificate will be omitted unless the court sees fit to appoint some person to be administrator of estate and guardian of the minor.

PART C—RULES.

(Rules made by the High Court with the approval of the State Government, under the powers conferred by section 50, sub-section (i) clause *(ff)* of the Guardians and Wards Act, 1890, regarding the levy of fee for the audit of Guardians and Wards Accounts).

(1) In order to meet the cost of audit of the guardians and minor accounts by Government, the court shall require the guardian to credit one per cent of the estate's income into the treasury under the head "XLVI—Miscellaneous—Provincial fees for Government Audit". The audit fee thus credited and supported by the treasury challan shall be incorporated in the accounts of the estate concerned submitted to the court annually by the guardian under rule 8 of Chapter 2B, High Court Rules and Orders, Volume II. The court will not pass accounts unless it is satisfied that requisite audit fee has been duly credited into the treasury.

(2) The Guardianship Judge is authorise to waive recovery of audit fee upto a limit of Rs. 10 in each case, if he is satisfied that it cannot conveniently be recovered or that the cost of its recovery is likely to exceed the amount to be recovered. All cases of non-recovery of audit fee exceeding Rs. 10 must be reported to the High Court.

These rules were enforced with effect from the 1st April 1944.

(High Court notification No. 66-R/XV-B-8, dated the 20th April, 1945).

NOTE—The rules contained in this part do not apply to Delhi State Fees for the audit of the guardians and minors accounts in Delhi are charged according to the daily rates fixed by the Government of India for the audit of non-Government funds.

(Chief Commissioner, Delhi's Letter No. 4(23)-A/45 General, dated the 13th July, 1945.

CHAPTER 3.

INVESTMENT OF TRUST MONEY

Rules made by the High Court, under the powers conferred by section 20, clause (f) of the Indian Trusts Act, 1882, authorising the investment of trust moneys.

RULES

Trust money may be invested in debentures issued by Port of Bombay Trust.

In accordance with the powers contained in section 20, clause (f), the Indian Trusts Act, 1882, it is declared that trust property, consisting of money, may be invested in debentures issued by the Trustees of the Port of Bombay under the Bombay Port Trust Act (Bombay VI of 1879), until further orders.

CHAPTER 4.

INSOLVENCY PROCEEDINGS

PART A—GENERAL

Courts having jurisdiction to try insolvency cases. Priority should be given to insolvency work.

1. Under section 3 of the Provincial Insolvency Act, 1920, all District Courts are invested with jurisdiction under the Act and the State Government is also empowered to invest Subordinate Courts with concurrent jurisdiction. In the Punjab, besides Judges of the Courts of Small Causes at Amritsar, all Subordinate Judges of the 1st Class have been invested with such jurisdiction but the High Court has directed that only those (1) Subordinate Judges of the 1st Class should take cognizance of proceedings under the Act who are expressly permitted by the High Court to do so.

Insolvency cases should ordinarily be entrusted to the Senior Subordinate Judges provided that if the Senior Subordinate Judge is unable to find time for them, they should be given to some Subordinate Judge of the First Class.

Forum of Appeal.

2. When a subordinate Court exercises concurrent jurisdiction appeals from its orders lie to the District Judge (Section 75).

Procedure to be followed.

3. Subject to the special provisions of the Provincial Insolvency Act. 1920, the Insolvency Court shall follow the same procedure as they do in the exercise of original Civil Jurisdiction *(vide* section 5).

Process fee chargeable for all notices issued.

4. The practice of charging no process fee in respect of notices sent to or served on creditors is against the provisions of section 20 of the Court Fees Act under which process fee has to be charged for any mode of serving or executing a process or notice whether by post or through the ordinary process-serving agency.

Notice by registered post and in Official Gazette.

5. It should be noted in connection particularly with petitions involving a large number of creditors that the publication in the Official Gazette is in itself a notice to

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(1) Vide Notification No. 780, dated 15th July, 1014.

creditors and it would be sufficient in most cases especially of debtor's applications to issue notice by registered post, and if the creditors do not attend, it will be because they expect that realisation will not be worth the trouble. It may, of course, be necessary to take special steps to inform creditors for large amount or at distant places.

The amount of debt and other conditions requisite for insolvency petition and summary administration.

6. Conditions under which a debtor or his creditor can file a petition are laid down in sections 10 and 9 of the Act. It is important to note however, that section 10 of the Provincial Insolvency Act has been amended by section 3 of the Punjab Relief of Indebtedness Act VII of 1934.

According to section 10 of the Provincial Insolvency Act, debtor is entitled to present an Insolvency petition if *inter alia* "his debts amount to Rs. 500". This limit has been reduced to Rs. 250 by section 3 of the Act VII of 1934 in cases where the debtor can also satisfy the Court that he is entitled to summary administration of his estate under section 74 of the Provincial Insolvency Act.

The benefits of summary administration were open under section 74 of the Provincial Insolvency Act to those debtors only whose property was not likely to exceed in value Rs. 500. This limit has been raised to Rs. 2,000 by section 4 of the Punjab Relief of Indebtedness Act, with the result that a wider circle of debtors is now entitled to take advantage of the summary procedure (1).

Oral examination of the debtor and summary inquiry advised to dismiss dishonest applications.

7. Section 10 of the Provincial Insolvency Act requires the debtor to prove *inter alia* that he is "unable to pay his debts". Section 24 of the Act provides that "prima facie" proof is sufficient for this purpose but if the debtor is carefully examined by the court as required by section 24, such examination, supplemented by a summary enquiry, will frequently enable the court to dismiss *in limine* dishonest applications.

If the Court finds subsequently that an Order for adjudication ought not to have been made, the order can be cancelled at a later stage.

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(1) *See* notification (H-Judl.) No. 6365-J. 36/36573, dated 25th November, 1936.

Duty of insolvency court to inform proper authority when a Government servant or a lawyer is adjudged insolvent or adjudication is annulled, or is discharged.

8. When a Government servant is adjudged an insolvent, the Head of Department concerned should be informed of the insolvency by the Court as soon as an order of adjudication has been passed.

9. Whenever an Advocate, a Pleader or a petition-writer is adjudged an insolvent, or his order of adjudication has been annulled or he has been discharged, the Insolvency Court shall forthwith report the fact to the District Judge of the district in which such Advocate, Pleader, or Petition-writer has ordinarily been practising.

Period for application for discharge should be fixed in the adjudication order.

10. When a person is adjudged an insolvent, the adjudication order must specify the period within which the insolvent is to apply for his discharge (section 27).

Official Receivers should normally be appointed Receivers.

11. The proper administration of an insolvents's estate depends mainly on the efficiency of the Receiver and the selection of a suitable Receiver requires, therefore, careful attention of the Court.

Power of State Government to appoint Official Receiver.

12. The State Government is empowered under section 57 of the Provincial Insolvency Act, V of 1920, to appoint Official Receivers for such local limits as it may prescribe. (For general rules as regards the appointment, remuneration, etc., of Receivers other than Official Receivers appointed under the Provincial Insolvency Act, 1920, *see* "The Punjab Insolvency Rules" published in Part C of this Chapter).

Distinction between an Official Receiver and Ordinary Receiver Official Receiver may be invested with quasi-judicial powers but not a Court.

13. The distinction between an official receiver and ordinary receiver should be noted. An Ordinary Receiver is appointed by the Court (in each case separately) under section 56 of the Act while an Official Receiver is appointed by the State Government under section 57. It is provided under section 57(2) that where an Official Receiver has been appointed he shall be the Receiver for the purpose of every order appointing a Receiver or an Interim Receiver "unless the Court for special reasons otherwise directs". The Official Receiver has the same powers as an Ordinary Receiver but is a Public Official and may in addition be invested with certain quasi-Judicial Powers under section 80 of the Act. It is important to add, however, that an Official Receiver, even when invested with powers under section 80 of the Act, is not a Court.

Schedule of creditors and other necessary directions to be supplied to Receivers.

14. The Receiver should be furnished with a copy of the Schedule of creditors (which must be prepared by the Court,----vide section 33) and should be given any further directions as regards his duties and administration of the estate as the Court may think necessary in each case.

Schedules of the property and lists of creditors should be checked by a Court Official before delivering them to the Receivers.

15. The Schedules prescribed in Form No. 2 (printed at the end of this Chapter) must be examined carefully in court when they are first presented with the Insolvency petitions as the entries in the official Receivers' Registers are often incomplete because these schedules do not supply the requisite information.

The Courts should specially entrust the duty of checking these schedules to one of the Officials and see that it is carried out.

The lists put in by the insolvents should also be verified by the Court to see that they tally with each other before one copy is handed over to the Receiver.

Insolvents property vests in the Receiver including lands of members of agricultural tribes.

16. On the appointment of a Receiver all the insolvent's property, subject to certain exceptions, vests in the Receiver *(vide* section 28) and can be utilized for the payment of his debts.

The Adaptation of Laws (Third Amendment) Order, 1951, has repealed the Punjab Land Alienation Act, 1900. The bar created by section 16 of the Act to the sale of the land of an agriculturist in execution of the decree or order of a Civil Court has thereby been removed.

Adjudication order is a bar to fresh suits. Stay of pending suits optional but advisable.

17. On the passing of an adjudication order a creditor cannot institute a suit against the insolvent for the recovery of his debt, but must prove his debt in the Insolvency Court. But pending suits may be stayed or continued on such terms as the trial Court may deem fit (Section 28-29).

Insolvency petitions are sometimes kept pending for long periods in order to await the result of civil suits instituted by the creditors for the recovery of their debts in the ordinary courts. The correct course in such cases generally is to allow parties to move the civil courts concerned to stay suits in order that the plaintiffs claim may be proved in insolvency as otherwise one creditor alone may hold up the proceedings in insolvency and thus indirectly delay or prejudice the interest of other creditors.

18. Under the Provincial Insolvency Act, 1920, an adjudication order does not, by itself confer on the insolvent any immunity from arrest in execution of decrees. It is left to the Insolvency Court to decide whether to grant him such protection and if so, to what extent (section 31).

Adjudication order no bar to arrest of debtor in execution.

19. The insolvent is bound to assist in the administration of his estate in every way. If he fails to perform his duties or is found guilty of fraudulent conduct, he is liable to be prosecuted under section 69. In such cases, however, the Insolvency Court is now required to make a complaint to a Magistrate having jurisdiction (Section 70).

Duty of insolvent to co-operate with the Receiver.

20. Section 4 of the Act is very comprehensive and enables the Insolvency Court to determine all questions of title or priority arising in the Insolvency proceedings, which "the Court may deem it expedient or necessary to decide for doing complete justice or making a complete administration of property in any such case". However, though the Insolvency Court has wide powers to decide such questions, still in cases involving difficult questions and unusual complications, it is advisable to relegate the parties to a regular suit.

Power of Insolvency Court to decide all the questions of titles, etc.

21. The provisions of sections 41 to 43 of the Act, as regards the discharge of the insolvent, are very important and should be carefully studied. The intention of the legislature in requiring the Court to fix a period in the adjudication order within which the insolvent must apply for discharge is to ensure that the conduct of the insolvent should in all cases be brought under review by the Court within a reasonable time. If the insolvent does not apply for his discharge within the time, he is liable to have the adjudication annulled, and the result will be that he will not only not get back the property distributed amongst his creditors, but he will at the same time be still liable to arrest and imprisonment in execution of decrees against him.

Effect of insolvent not applying for discharge within the fixed period. Object of fixing such time.

CHAPTER 4-B

PART B __RULES MADE BY THE STATE GOVERNMENT UNDER SECTION 57 OF THE PROVINCIAL INSOLVENCY ACT.

1. Every Official Receiver shall receive out of the Fund provided under sub-section (3) of section 57 of the Provincial Insolvency Act, 1920, or otherwise, the following remuneration inclusive of the Administration charges, such as rent for office or Warehouse, stationery, salary of office establishment, travelling allowance for journeys undertaken in the interest of insolvency work in general and other office contingency charges in respect of secured as well as unsecured debts :

Description	Percentage	Remarks
1	2	3
(a)On amount realized from the insolvents assets	8¾ percent of the realisation up to Rs 5,000 per estate and beyond that 6 1/4 per cent.	
(b) When on application, in writing to the Insolvency Judge by a creditor who bolds as security any part of the insolvent's property, the Official Receiver has sold the·property and realized security under a written order of the court, on the proceeds of sale.	8¾ percent of the realisation up to Rs 5,000 per estate and beyond that 6¼ per cent.	
(c) Where a compromise has been effected with the insolvent or settlement made among the creditors.	8¾ percent of the total sum agreed to be paid to the creditors up to Rs 5,000 per estate and beyond that 6¼ per cent.	
(d) Where the property is sold through the Official Receiver of another district where the property is situated.	5½ per cent of the sale-proceeds upto Rs 5,000 per estate and beyond that 4¼ per cent.	
(e) Where the Official Receiver sells property which is subject of insolvency proceedings in another district.	3¼ per cent of the sale-proceeds upto Rs 5,000 and beyond that 2 per cent.	

1	2	3
(f) Where the property of the Insolvent is sold through the Nazarat Staff..	6¾ per cent of the sale-proceeds upto Rs 5,000 per estate and beyond that 4¼ per cent.	

Note.- Two per cent of the sale proceeds shall be credited to Government under the head "XVII-Administration of Justice Misc. Fees and Fines-Insolvency Courts Receipts."

(g) Where the property is sold through a Court of another State where the property is situate.	5½ per cent of the sale-proceeds upto Rs 5,000 per estate and beyond that 4¼ per cent.	
(h) Where the Official Receiver sells property of an insolvent adjudicated in another State.	3¼ per cent of the sale-proceeds upto Rs 5,000 and beyond that 2 per cent.	
(i) Where the order of adjudication is set aside before the Official Receiver has made any realization.	1 per cent of the estimated value of the property.	
(j) Where the Official Receiver is an *ad interim* Receiver prior to adjudication in Insolvency proceedings.	1 per cent of the estimated value of the property.	
(k) In the case of money received by the Official Receiver from the Nazir on account of sales held through Court prior to adjudication.	5½ per cent of the amount received up to Rs. 5,000 and beyond that 3 per cent.	

Provided that in all cases except those mentioned in items (e), (h), (i) and (j) half the amount of remuneration may not be paid to the Official Receiver until the assets are distributed.

Commission on sale of property subject to mortgage.

2. In the case of property mortgaged to a creditor commission should be charged on the entire sale-proceeds only if the creditor makes a written application for the realization of the security through the Court irrespective of the fact whether the purchase money exceeds the mortgage money or not. In cases in which such property is sold without an application by the secured creditor, the

commission should be charged on the sale-proceeds less the amount involved by the encumbrance.

Note.—The Official Receiver must not delay the disposal of property till such time as he can induce the secured creditors to give their consent to the sale of their interest also in the property. It may be useful, of course, to obtain this consent and so to sell property free of all encumbrances but the matter must not be delayed too long. The Official Receiver is competent at all times to dispose of the equity of redemption which in fact is all that does vest in him.

Fund provided under section 57 (3) of the Provincial Insolvency Act

3. All sums payable under clause (b) of sub-section (2) of section 56 of the Provincial Insolvency Act, 1920 in respect of the services of an Official Receiver shall be credited into the District Treasury or a Sub-Treasury in the name of the Insolvency Judge, under the head "Official Receiver's Remuneration Fund".

(Notification No. GSR-163/CA-5/20/S. 63, dated 20th June, 1963 published in Punjab Government Gazette, dated 28th June, 1963).

CHAPTER 4-C

PART C—GENERAL RULES MADE BY THE HIGH COURT WITH THE PREVIOUS SANCTION OF THE STATE GOVERNMENT UNDER SECTION 79 OF THE PROVINCIAL INSOLVENCY ACT.

Title and application.

1. These rules may be cited as "The Punjab Insolvency Rules" and shall apply to all proceedings under the placation. Provincial Insolvency Act, 1920.

Adaptation of forms prescribed.

2. The forms annexed to these rules (printed at the Adaptation of end of this Chapter), with such variations as crcumpres stances may require, shall be used for the matters to which they severally relate.

Definitions.

3. (i) In these rules, unless there is anything repugnant in the subject or context

"The Act" means the Provincial Insolvency Act, 1920.

"Receiver" means a Receiver appointed by the Court under section 56(1) of the Act.

"Interim Receiver" means a Receiver appointed by the Court under section 20 of the Act.

"Proved debt" means the claim of a creator so far as it has been admitted by the Court, or by the Official Receiver empowered under section 80(1)(b) of the Act.

(ii) Unless there is anything repugnant in the context, words and expressions used in these rules shall have the same meanings as those assigned to them in the Act, and references to sections shall be taken to be references to sections of the Act.

Persons by or against whom a petition for insolvency may be filed.

4. A petition for insolvency under the Provincial Insolvency Act may be filed by or against any individual or firm but not against any association, corporation or company registered under any enactment for the time being in force.

Insolvency Notice.

4A. (1) A creditor, desirous that an insolvency notice under sub-section (2) of section 6 of the Act may be issued, shall produce a certified copy of the decree or order on which the notice is found and file the notice together with a request to the Court for issue. The creditor shall at the same time lodge with the Court two copies of the insolvency notice to be sealed and issued for service :

Provided that the notice if required to be served upon a debtor residing, whether permanently or temporarily, outside India, shall not be issued unless prior leave of the Court is obtained for the service thereof by making an application in that behalf.

(2) The insolvency notice to be given under sub-section (2) of section 6 of the Act shall be in Form 2-A.

Service.

4B. (1) The insolvency notice shall be served on the debtor personally or by registered post acknowledgement due.

(2) If the notice is refused or unserved for any other reason, it shall be published in the daily newspaper circulating in the locality in which the debtor is last known to have resided, carried on business or personally worked for gain.

Registers prescribed for entry of insolvency petitions and other applications.

5. (a) Every insolvency petition shall on institution be entered in Civil Register of Miscellaneous cases (Register No. II) in all Courts exercising insolvency jurisdiction and shall be given serial number in that register. If the petition results in adjudication, the case should be entered in the Register of persons adjudicated insolvents to be maintained in Form No. 15 attached at the end to these rules and all entries relating to proceedings subsequent to adjudication should be made in this register.

(b) Miscellaneous applications under sections 4, 53, 54 and 69 of the Provincial Insolvency Act should be entered in Civil Register No. VI (Register of Miscellaneous Petitions) which is the proper register for entering such applications. A separate register should be maintained in this form for insolvency cases.

6. All Insolvency proceedings may be inspected by the Receiver, the debtor, and any creditor, who has proved, or any legal representative on their behalf at such times and subject to the same rules as other court records (vide for Volume IV, Chapter 16-Records) provided that no fee shall be charged for inspection made by the Receiver.

Persons entitled to inspect proceedings and fees for inspection.

NOTICES

7. Whenever publication of any notice or other matter is required by the Act to be made in an official gazette, a memorandum referring to, and giving the date of, such advertisement shall be filed with the record and record. noted in the order-sheet.

Memorandum of publication in Gazette to be kept on record.

8. (i) Notices of order fixing the date of the hearing of of petition under section 19(2) may, in addition to the publication thereof in the official gazette, be also advertised in such newspaper or newspapers as the Court may direct. A copy of the notice shall also be forwarded by registered post to each creditor, to the address given in the petition, or served on the creditor in the manner prescribed for the service of summonses, as the Court thinks fit. The same procedure shall be followed in respect of notices of the date for the consideration of the proposal for composition or scheme of arrangement under section 38(1).

Manner of notifying dates of hearing.

(ii) Where the petition is by a creditor a notice shall be served on the debtor in the manner prescribed for the service of summonses.

9. Notices of order of adjudication under section 30 shall be published in the official gazette and may also be published in such newspaper or newspapers as the court may think fit. When the debtor is a Government servant, a copy of the order shall be sent to the head of the office in which he is employed.

Manner of notifying, order of adjudication and orders canceling adjudication.

The same procedure shall be followed in regard to notice of orders, annulling adjudication under section 37 (ii).

Persons on whom notices under Section 33(3) are to be served.

10. The notices to be given under section 33(3) of the Act shall be served only on the Receiver and on the creditors who have proved their debts and may, if the Court so direct, be served on any or all such creditors by registered post.

Service of notice under Section 50.

11. The notice to be given by the Court under section 50 shall be served on the creditor or his pleader, or shall be sent through the post by registered letter.

Service of notice under section 64.

12. The notice to be issued by the Receiver under Section 64 before the declaration of a final dividend to the section person whose claims to be creditors have been notified, but not proved, shall be sent through the post by registered letter.

Creditors to file address for service.

13. When the creditors appear in Court in answer to the notices issued under section 19(2) of the Act or appear to prove their debts, they shall be required to give their addresses for service by post.

Manner of notifying date of hearing of discharge applications.

14. Notices of the date of hearing of application for discharge under section 41(1) shall be published in the official gazette and may also be published in such news-papers as the Judge may direct, and copies shall be sent by Registered post to all creditors, whether they have proved or not, or served on them in the manner prescribed for service of summons, as the Court thinks fit.

Proof of Service by Post.

15. A certificate of an officer of the Court or of the Official Receiver or an affidavit by a Receiver that any of the notices referred to in the preceding rule has been duly posted, accompanied by the post-office receipt, shall be sufficient evidence of such notice having been duly sent to the person to whom the same was addressed.

Court's discretion to adopt any other mode of service.

16. In addition to the methods of publication prescribed in these rules, the notices issued thereunder may be served in the discretion of the Court in such other manner as the Court may direct, for instance, by affixing copies on the Court house or by beat of drum in the village where the insolvent resides.

17. Every notice issued under rules 7, 8, 11 and 12 shall be published or issued at least 14 days before the doing of the act of which warning is given in such notice.

Notices should be issued or published a fortnight before date.

Note.—Every notice is to be sent by registered post with acknowledgement due. Service stamps should ordinarily be used and the cost thereof drawn from the deposit made under Rule 55 of this Chapter or from the funds of the Estate concerned and credited to "065—Other Administrative Services—Administration of Justice—Other Receipts" with full details of recoveries entered in the Treasury Challan or repayment voucher, as the case may be.

Mode of recovery of cost of service stamps.

RECEIVERS AND INTERIM RECEIVERS

18. Every appointment of a Receiver shall be by order in writing signed by the Court. Copies of this Order, sealed with the seal of the Court, shall be served on the debtors and forwarded to the person appointed.

Order for appointment of a receiver to We served on the debtor.

19. Every Receiver or Interim Receiver, other than an Official Receiver, shall be required to give such security as the Court thinks fit. (As regards security to be taken from Official Receivers, *See* Chapter 4-D of this Volume).

20. As soon as the Schedule of creditors has been framed, a copy thereof shall be supplied to the Receiver or Interim Receiver, as the case may be, and all subsequent entries and alterations made therein, shall be communicated to the Receiver or the Interim Receiver.

Schedule of creditors & all subsequent entries in it to be notified to receiver.

21. (i) A Court when fixing the remuneration of Receiver should, as a rule, direct it to be in the nature of a commission of percentage not exceeding 7½ per cent of the amount of the dividends, of which one part should be payable on the amount realized, after deducting any sums paid to secured creditors out of the proceeds of their securities and the other part on the amount distributed in dividends.

Remuneration of Receiver.

This commission is intended to cover all office expenditure including cost of establishment, if any, to be maintained by the Receiver for the discharge of his duties, and contingencies such as purchase of account books and forms and issue of notices, etc., incurred by the Receiver in connection with the administration of the Insolvents' estates.

(ii) Where a Receiver realizes the security of a secured creditor, the Court may direct additional remuneration to be paid to him with reference to the amount of the work which he has done and the benefit resulting to the creditors.

(iii) If a Receiver has been appointed in an insolvency proceedings in which the Court makes an order approving a proposal under section 39, the remuneration to be paid to the Receiver shall be fixed by the Court, and the order approving the proposal shall make provisions for payment of the remuneration and shall be subject to the payment thereof.

(iv) When the office of an Official Receiver falls vacant on account of his death, suspension, dismissal or proceeding on leave, a particular person shall be appointed as ad hoc Receiver by the Court in each case under section 56 of the Provincial Insolvency Act, the person being nominated by the High Court. The Receiver so appointed shall draw commission and administration charges at the rates admissible to an Official Receiver under Rule 1 of Chapter 4-B, Rules and Orders, Volume

Remuneration of interim receiver.

22. If a person is specially appointed an Interim Receiver and is afterwards appointed Receiver in the case, his realizations in both the capacities can be treated alike and the ordinary commission charged. Other cases, in which an interim Receiver does work, but there is no adjudication or substantive receivership, are few, but in them if any real work is done beyond the taking charge of such insignificant movables as the debtor produces voluntarily, it will probably have to be done quickly and be of a definite character and if any remuneration has to be fixed separately in those cases, it should be such sum as the Insolvency Judge may decide on the Receiver's

appointment, subject to a maximum of one per cent on the estimated value of the property.

Receiversshould security, give amount and form of security bonds.

23. The Court should be careful to take adequate security from the Receiver with due regard to the value of the assets likely to pass through his hands.

The Court should use due discretion in fixing the amount of security to be taken in such cases. It is suggested as a principle which might usefully be adopted that the amount should roughly be equal to half the average annual realizations calculated on the realizations of the last five years.

The forms of security and security bonds should be the same as those prescribed for Official Receivers in Chapter 4-E, of this Volume, the word "General" being substituted for the word "Official" wherever it occurs in the Bond.

Books to be kept by the Receiver. Submission of accounts and their audit.

24. The Receiver shall keep a Cash Book, a Dividend Register, and such other books as may be required to give a correct view of his administration of the Estate, and shall submit his accounts at such times and in such forms as the Court may direct. In the absence of any such directions, the Receiver shall submit to the Court for each quarter, not later than the 10th day of the month next following, an account showing all the receipts and disbursements in cases in which he is a Receiver. The Receiver's accounts shall be audited by the Local Audit Department of the Accountant General, Punjab, Haryana, Chandigarh Administration, as the case may be. The cost of the Audit shall be paid out of the estate at the rate of 1¼ per cent of the total realizations.

A receiver, appointed under Rule 21, clause (iv), above shall continue to keep all registers and accounts in the same form and on the same system as are prescribed for Official Receivers in Part E of this Chapter.

Transactions of interim proceedings should be kept separate.

25. Receivers should not amalgamate their transactions relating to interim proceedings with those of Insolvent Estates.

Cash realized by interim Receiver not to be mixed up with insolvents Estates Fund.

26. The cash which is realized or collected by an Interim Receiver should be deposited in the State Bank of India or some other approved Bank and not mixed up with the Insolvent Estates Fund of which an account is kept in the treasury.

Books kept by Interim Receiver.

27. An Interim Receiver shall be required to maintain only the following books and forms :—

(i) A Cash Book in Form No. 15 of Official Receiver (appended at the end of Ch. 4-E).

(ii) A Receipt Book in Form No. 9 of Official Receiver (appended at the end of Ch. 4-E).

(iii)A Property Register in Form No. 16 (given at the end of this Chapter).

No audit of Interim Receiver's accounts require.

28. A separate audit of interim accounts is unnecessary because if the interim appointment leads to full receivership after adjudication the Interim Accounts will be incorporated in the Receiver's accounts which will then be audited as such in the usual way. If, however, the petition for insolvency is dismissed, no audit is required because the debtor would, under the circumstances, himself take back the estate from the Interim Receiver.

Proved creditor entitled to a copy of receiver's accounts.

29. Any creditor who has proved his debt may apply to the Court for a copy of the Receiver's accounts, or any part thereof, relating to the Estate as shown by the Cash Book up to date and shall be entitled to such copy on payment of the charges laid down in the rules of this Court regarding the grant of copies.

Directions as to safe custody of valuable securities and cash secured by receiver and as to theinvestment of sums exceeding Rs. 500.

30. The Receiver shall deposit all valuable securities, and cash for safe custody with the Nazir (who shall enter the same in the Malkhana Register to be maintained in form 22 and paste a label thereon in form 23 as prescribed for Official Receivers at the end of Part E of this Chapter or in the State Bank of India. or any other approved Bank,

as the Court may direct and whenever a sum exceeding Rs. 500 shall stand to the credit of any one Estate, the Receiver shall give notice thereof to the Court; and, unless it shall appear that a dividend is about to be shortly declared, he shall obtain the Court's order as to investment of the same in a suitable manner, e.g., in securities or as a fixed deposit with a Bank, etc.

Duty of receiver to deliver up assets and boo, etc., on being removed, or on annulment of adjudication.

31. (i) The Court may remove or discharge any Receiver or Interim Receiver, and any Receiver or Interim Receiver so removed or discharged shall, unless the Court otherwise orders, deliver up any assets of the debtor in his hands and any books, accounts or other documents relating to the debtor's property which are in his possession or under his control, to such person as the Court may direct.

(ii) If an order of adjudication is annulled, the Receiver, if any, shall unless the Court otherwise orders, deliver up any assets of the debtor tin his hands and any books, accounts or other documents, relating to the debtor's property, which are in his possession or under his control, to the debtor, or to such other person as the Court may direct.

Receiver shall submit an early report as to conduct of the debtor and other matters.

32. (i) Unless the Court otherwise directs, the Receiver or Interim Receiver shall, as soon as may be, after his, appointment, and in any case before the hearing of the debtor's application for discharge, draw up a report upon the cause of the debtor's insolvency, the conduct of debtor so far as it may have contributed to his insolvency and also his conduct during the insolvency proceedings, and in particular such report shall state specifically whether any of the facts mentioned in each of the clauses of or sub-section (1) of section 42 exist or do not exist.

(ii) If the debtor submits a proposal under section 38(1) of the Act, the Receiver shall state in his report whether in his opinion the proposal is reasonable and is likely to benefit the general body of the creditors and shall state the reasons for his opinion.

Receiver to be deemed an Officer of the Court

33. Every Receiver or Interim Receiver shall be deemed for the purposes of the Act and of these rules to he deemed an the be an officer of the Court.

PROOF OF DEBTS

Proof of debt by affidavit.

34. A creditor's proof may be by an affidavit in Form No. 6 with such variations as circumstances may require.

Proof of wages of workmen etc., employed by the debtor.

35. In any case in which it appears from the debtor's statement that there are numerous claims for wages by workmen and others employed by the debtor, it shall be sufficient if one proof for all such claims is made either by the debtor or by some other person on behalf of all such creditors. Such proofs should be in Form No. 7.

DIVIDENDS

Provisions as to declaration of dividend notifying its distribution and remission and other connected matters.

36. (i) A dividend should be declared in each estate ordinarily every six months, i.e., on the 1st July and the 1st January, each year.

(ii) If sufficient funds are not available for a particular dividend in any particular estate a report to this effect should be made to the Court for orders on these dates.

(iii) No dividend shall be distributed by a Receiver without the previous sanction of the Court.

(iv) Notice that the distribution of a dividend has been sanctioned shall be sent by the Receiver, or, if there is no Receiver by the Court, to every creditor, who has proved a debt, by registered post within one month from the date of the order sanctioning the distribution.

(v) An order shall not be made under section 65 of the Act without giving the Receiver an opportunity to show cause why the order should not be made.

(vi) The amount of the dividend may, at the request, expense and risk of the creditor, be transmitted to him by post.

But if the amount is under rupees twenty, the Official Receiver may, after due notice, remit the sum by post to the creditors concerned at their expense and risk even when no formal request has been made by them.

(vii) Where the assets in the hands of the Official Receiver are too small for distribution as dividend, e.g., a rupee or so, these sums may be treated, with the permission of the court in each case, as "unclaimed" by creditors and eventually lapsed to Government.

PROCEDURE WHERE THE DEBTOR IS A FIRM

Mode of signing on behalf of the firm.

37. Where any notice, declaration, petition or other document requiring attestation is signed by a firm of creditors or debtors in the firm's name, the partner signing for the firm shall also add his own signature, e.g., "Brown & Co., by James Green, a partner in the said firm".

Mode of personal service on a firm.

38. Any notice or petition for which personal service is necessary, shall be deemed to be duly served on all the members of a firm if it is served at the principal place of business of the firm within the jurisdiction of the Court, on any one of the partners or upon any person having at the time of service the control or management of the partnership business there.

The preceding rule to apply to persons not carrying on business in their own name.

39. The provisions of the last preceding rule shall, so far as the nature of the case will admit, apply in the case of any person carrying on business within the jurisdiction in name or style other than his own.

Insolvency petition by a firm should show names of all the partners and an affidavit that all Partners concur in the filing of the petition.

40. Where a firm of debtors files an insolvency petition, the same shall contain the names in full of the individual partners, and if such petition is signed in the firm's name the petition shall be accompanied by an affidavit made by the partner who signs the petition showing that all the partners concur in the filing of the same.

Adjudication order against a debtor firm shall operate against all individual partners.

41. An adjudication order made against a firm shall operate as if it were an adjudication order made against each of the persons who at the date of the order are for that firm.

Each partner shall submit a schedule of his separate affairs.

42. In cases of partnership, the debtors shall submit Each partner a schedule of their partnership affairs, and each debtor shedule of his shall submit a schedule of his separate affairs.

43. The joint creditors and each set of separate creditors, may severally accept composition or schemes of arrangement. So far as circumstances will allow, a proposal accepted by joint creditors may be approved in the prescribed manner, notwithstanding that the proposals or proposal of some or one of the debtors made to their or his separate creditors may not be accepted.

Composition with a firm. Annulment of adjudication where a composition or scheme is approved.

44. Where proposals for compositions or schemes are made by a firm and by the partners therein individually, the proposals made to the joint creditors shall be considered and voted upon by them a part from every set of separate creditors and the proposal made to each separate set of creditors shall be considered and voted upon by such separate set of creditors apart from all other creditors. Such proposals may vary in character and amount. Where a composition or scheme is approved, the adjudication order shall be annulled only so far as it relates to the estate, the creditors of which have confirmed the composition or scheme.

Disposal of assets of a separate firm formed by some members of a partnership.

45. If any two or more of the members of a partnership constitute a separate and independent firm the creditors of such last mentioned firm shall be deemed to be a separate set of creditors and to be on the same footing as the separate creditors of any iindividual member of the firm. And when any surplus shall arise upon the administration of the assets of such separate or independent firm, the same shall be carried over to the separate estates of the partners in such separate and independent firm according to their respective rights therein.

SUMMARY ADMINISTRATIONS

Special procedure in sase of summary administration.

46. When an estate is ordered to be administered in a summary manner under sectipn 74 of the Act, the provisions of the Act and Rules shall, subject to any special direction of the Court, be modified as follows, namely :—

(i) There shall be no advertisement of any proceedings in the local official gazette or any newspaper;

(ii) the petition and all subsequent proceedings shall be endorsed "summary case";

(iii) the notice of the hearing of the petition to the creditors shall be in Form No. 14;

(iv) the court shall examine the debtor as to his affairs, but shall not be bound to call a meeting of creditors but the creditors shall be entitled to be heard and to cross-examine the debtor;

(v) the appointment of a Receiver will often not be necessary and the Court may act under section 58 of the Act in order to reduce the cost of the proceedings. The administration charges, however, shall be levied at the same rates as ordinary cases. These charges should be credited into the treasury under Head XXI—Administration of Justice—Misc. Fees and Fines—Insolvency Court Receipts, except those representing the cost of audit, which should be credited under Head XLVI—Miscellaneous Fees for Government Audit;

(vi) the ordinary Nazarat staff should be employed for conducting sales;

(vii) the only registers which need be kept are the Cash Book, the Dividend Register. the Register of Property and such other Registers as may be required to give a correct view of the administration of the estate.

PROSECUTIONS

Notice shall be given to debtor before lodging a complaint.

47. Before passing an order for making a complaint of any offence referred to in section 69 the Court shall issue a notice to the debtor calling upon him to show cause why such an order should not be passed against him.

DISCHARGE

Application to be heard only after submission of creditor's schedule and receiver's report.

48. An application for discharge shall not ordinarily be heard until after the schedule of creditors has been framed and the Receiver has submitted his report (vide Rule 32). The Receiver, if he is in a position to make it and has not already done so, shall file his report in Court not less than fourteen days before the date fixed for the hearing of the application.

Proved creditors only may oppos discharge.

49. Every creditor who has proved shall be entitled in person or by pleader to appear at the hearing and oppose the discharge.

In the matter of discharge court shall examine the debtor and may hear the receiver, the debtor and creditors.

50. At the hearing of the application the Court may hear any evidence which may be tendered by a creditor and also any evidence which may be tendered on behalf of the debtor and shall examine the debtor, if necessary for the purpose of explaining any evidence tendered and may hear the Receiver, the debtor, in person or by pleader, and any creditor in person or by pleader.

Procedure where debtor fails to apply for discharge Within the fixed period or where no period has been fixed.

51. Any case in which the debtor fails to apply for his discharge within the period allowed by the Court under section 27 shall be brought up for orders under section 43. If the Court has omitted to specify a period under section 27(1), and the debtor has not already applied for discharge, the Court upon receipt of the Receiver's report shall fix a period within which the debtor shall apply for an order of discharge. Notice of such period shall be given to the Receiver and the debtor, and if on its expiry the debtor has not applied accordingly, the case shall be brought up for orders under section 43.

SALE OF IMMOVABLE PROPERTY

Sale by Court and preparation of sale deed where no Receiver is appointed.

52. If no Receiver is appointed and the Court, in exercise of its powers under section 58 of the Act, sells any immovable property of the Insolvent, the need of sale of the said property shall be prepared by the purchaser at its own cost and shall be signed by the Presiding Officer of the Court. The cost of registration (if any) will also be borne by the purchaser.

Sale shall ordinarily be by public auction

53. As a rule property should be sold by public auction at the spot. Full particulars of the property and incumbrances, if any, should be made known by customary methods, such as proclamation, beat of drum, hand bills, etc., sales in any other manner and at any other place should only be made with the sanction of the Court.

COSTS

Cost up to order of adjudication shall be borne by petitioner but subsequent Mt shall be met out of the estate.

54. All proceedings under the Act, down to and including the making of an order of adjudication, shall be at the cost of the party prosecuting the same, but when an order of adjudication has been made on the petition of a creditor the cost of the petitioning creditor including the

costs of the publication of all notices required by the Act or Rules shall be taxed and be payable out of the Estate.

Note.—All expenses including the expenses of any travelling done by an Interim Receiver with the permission of the Court granted after hearing the applicant have to be met by the party prosecuting the application according to this rule, and if these expenses are not furnished the application for insolvency should be filed.

Initial deposits by debtor to cover costs. This deposit shall cover postal charges but not process fees.

55. A person applying to be adjudicated an insolvent shall deposit a fee of at least Rs. 20 or such further sums, if any, as the Court may, from time to time, direct to cover the cost of the issue of the prescribed notices, of their publication in the Official Gazette and of all other proceedings under the Act, down to and including the making of an order of adjudication. Each such deposit shall be treated as Revenue Deposit and entered in the Register of Receipts prescribed in Chapter 8-E of this Volume.

Process fee shall be paid in court fee stamps.

Note No. 1.—This deposit does not cover process fees, which shall be realized as usual, in Court fee stamps according to the rules
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Initial deposit to cover all costs up to order of adjudication.

Note *No.* 2.—This deposit is meant not only for paying the expenses of publication of certain notices in the official gazette, but also to cover the postage costs of issue of the prescribed notices and all other proceedings under the Act down to and including the making of the order adjudication.

Disposal of balance of initial deposit.

Note No. 3.—The amount of undisbursed balance of these deposits should be transferred to the insolvent's assets after adjudication. Except as otherwise provided for, all expenses incurred after the order of adjudication can be met out of these assets.

Cost of a debtor about composition or scheme when to be allowed out of the estate.

56. No cost incurred by a debtor in connection with an application to approve of a composition or scheme shall be allowed out of the estate if the Court refuses to approve the composition or scheme.

Cases when creditors shall supply funds for administration of the estate repayment of small funds.

57. If the assets available are not sufficient in any case for taking proceedings necessary for the administration of the estate, the Receiver or Interim Receiver or Official Receiver, as the case may be, may call upon the creditors or any of them to advance the necessary funds or to indemnify him against the cost of such proceedings. Any assets realized by such proceedings, shall be applied,

in the first place, towards the repayment of such advances with interest thereon at 6 per cent per annum.

APPOINTMENT AND PROCEDURE OF THE COMMITTEES OF INSPECTION UNDER SECITON 67-A OF THE PROVINCIAL INSOLVENCY ACT

Appointment and procedure of Committees of Inspection.

58. The following rules have been framed with respect to the appointment and procedure of Committees of Inspection :—

(1) In any case in which the Court authorises the creditors to appoint a Committee of Inspection pursuant to the provisions of section 67-A of the Act, the Court shall, by the order of adjudication, fix a date for the holding of a meeting of the persons qualified to vote for the purpose of selecting the members of the Committee. A notice mentioning the date fixed shall be put up on the Notice Boards of the Court and the Official Receiver.

Number of members.

(2) A Committee of Inspection shall consist of not more than five, not less than three persons.

(3) A Committee of Inspection shall meet at such time as they shall, from time to time, appoint, and failing such appointment at least once a month, and the Official Receiver or any two members of the Committee may call a meeting as and when necessary.

Committee shall act only by a majority.

(4) A Committee of Inspection may act by a majority of members present at a meeting, but shall not act unless a majority of the Committee is present at the meeting.

Mode of resignation by a member.

(5) Any member of the Committee may resign his office by notice in writing signed by him and delivered to the Official Receiver.

When a member vacates his office.

(6) If a member of a Committee becomes insolvent or if absent from five consecutive meetings of the Committee, his office 'shall thereupon become vacant.

(7) Any member of a Committee may be removed of by a resolution at any meeting of the creditors of which seven days notice has been given stating the object of the meeting. Removal of a member

(8) On a vacancy occurring in the Office of a member of a Committee, the Official Receiver shall forthwith summon a meeting of creditors for the purpose of filling the vacancy and the meeting may, by resolution, appoint another creditor or other person eligible as above to fill the vacancy. Filling up a vacancy.

(9) The continuing members of the Committee of Committee Inspection, provided there be not less than two such continuing members, may act notwithstanding any vacancy in their body and when the number of members of a Committee is for the time being less than five, the creditors may increase their number so that it does not exceed five. Committee may act notwithstanding vacancy.

(10) When a Committee has been appointed, the Official Receiver shall, in the administration of the property of the insolvent and in the distribution thereof amongst his creditors, have regard to any suggestions that the Committee may give the by resolution. If the Official Receiver thinks that any suggestion of the Committee is not in the interests of the general body of creditors, he may report the matter to the Court which will give such instructions as it may consider just and necessary. Receiver to obtain orders of Court when he does not agree with the suggestions of the Committee.

(11) The Court shall afford an opportunity to the Committee of inspection for being heard before orders are passed on any such report submitted by the Official Receiver. The committee shall be heard before court passes order in the above case.

(12) The Court may, in order to decide the matter in dispute, call a meeting of the general body of creditors and consider their views before arriving at a conclusion. Court may call a meeting of the general body of creditors.

(13) The Official Receiver shall ordinarily act as the Secretary of the Committee and maintain a record of its proceedings in a bound register. Official Receiver shall be Secretary of the Committee.

Action of a member not to be vitiated by defect in his appointment..

(14) No defect or irregularity in the appointment or selection of a member of the Committee of Inspection shall vitiate any act done by him in good faith.

Receiver shall allow inspection of records to members and give other information and assistance.

(15) The Official Receiver shall afford all the members of the Committee both individually and collectively, reasonable facilities to examine at his office any of his records and registers during the working hours of the Court. The Official Receiver shall also give the Committee and its members any information which they require and give them every assistance and facility in the discharge of their functions.

FORMS IN INSOLVENCY PROCEEDINGS

FORM NO. 1

GENERAL TITLE

In the Court of____________________

Insolvency Petition No.________________of 19 .

In the matter ________________________.

Ex parte (here insert "the Debtor" of "A.B. or creditor" "the Official Receiver" or "the Receiver").

FORM NO. 2

DEBTOR'S PETITION

(Section 13)

In the court of ______________________

Insolvency Petition No. 19 .

(1) (a) __________________ ordinarily residing at (or "carrying on business at" or "personally working for gain at", or "in custody at") in consequence of the order of (b) being unable to pay my debts, hereby petition that I may be adjudged an insolvent. The total amount of all pecuniary claims against me is Rs. ______ (c) as set out in detail in Schedule A annexed hereunto which contains the names and residences of all my creditors so far as they are known to or can be ascertained by me. The amount and particulars of all my property are set out in Schedule B annexed hereunto together with a specification of all my property not consisting of

(a) Insert name and address and description of debtor.

(b) State name of Court and particulars of decree, in respect of which the order of detention has been made only whereas an order of attachment has been made against debtor's Property.

(c) State whether and how many of the debts are secured.

money and the place or places at which such property is to be found and I hereby declare that I am willing to place all such property at the disposal of the Court save in so far as it includes such particulars (not being my books of account) as are exempted by law from attachment and sale in execution of a decree.

I have not on any previous occasion filed a petition to be adjudged an insolvent or I set out in Schedule C particulars relating to my previous petition/petitions to be adjudged an insolvent.

Signature.

FORM No. 2-A

INSOLVENCY NOTICE

(See rule 4-A (2) read with section 6 of Provincial Insolvency Act, 1920, as amended).

IN THE COURT OF______________________

In the matter of ________________________

To

A.B. or (A.B. & Co.)____________of____________:

Take notice that within 30 (Thirty) days after service of this notice on you (excluding the day of such service), you must pay to______________ (full name and description of the creditor) or his duly authorised agent___________, the sum of Rs.__________ (state the exact amount due), claimed by the aforesaid creditor, against you in the___________ Court, dated____________, which has become final and execution whereof has not been stayed, or you must furnish security for the payment of the said sum to the satisfaction of the aforesaid creditor or his agent, within the above prescribed period.

You are specially to note that the consequences of not complying with the requisitions of this notice are that you will have committed an act of insolvency on which insolvency proceedings may be taken against you unless you make an application within the period prescribed for compliance thereof for setting it aside under sub-section (5) of Section 6 of the Provincial Insolvency Act, 1920 and in that event you will be deemed to have committed an act of insolvency as from the date stipulated in clause (b) of proviso to sub-section (2) of Section 6 *ibid.*

Name and address of the person/Advocate suing out the notice.

Dated this ____________ day of ________ 19

Judge.

VERIFICATION CLAUSE AS IN PLAINTS

SCHEDULE A--(DEBTS)

Name of Creditor	Residence of creditor	Amount of debt	Nature of debt	Security		Remarks
				Nature	Amount	
1	2	3	4	5	6	7

Column 4.—In this column enter whether the debt is a judgment debt, amount due on promissory note, mortgage debt, verbal loan, balance for goods, security for another, etc. In the case of Judgement-debt, state the name of the Court and the number of the case.

Column 5.---In this column state the nature of property whether land, house, gold, etc., and the nature of the security, whether deposit, pledge without possession, pledge with possession, mortgage deposit of title deeds, etc.

SCHEDULE B (ASSETS)

(1) Movable and Immovable Property

Description of property	Place where situated	In whose possession	In the case of land		Value of peroperty	If mortgaged state		
			Name of estate and holding No.	Area				

Column 9.—In the remarks column, state if petitioner is only part owner of the property and, if so, who the other owners are, and what his share in the property is,

(2) Debts owing to petitioner

Name of debtor	Residence of debtor	Nature of debt	Amount of debt	When contracted	Good bad or doubtful	Security	Amount	Remarks
						Nature		
1	2	3	4	5	6	7	8	9

Column 3.—In this column, enter particulars as in Column 4 of Schedule A.

SCHEDULE C

FORMER PETITIONS FOR INSOLVENCY
BY THE PETITIONER

Serial No.	Date of Petition	Date of adjudication, if any	Date and description of final order on the former petition	(a) Remarks
1	2	3	4	5

(a) If the petition was dismissed, state the reasons for dismissal. If the debtor has previously been adjudged an insolvent, give concise particulars of his insolvency, including a statement, whether any previous adjudication has been annulled, and, if so, the grounds therefor.

FORM NO. 3

NOTICE TO CREDITORS OF THE DATE OF HEARING
OF AN INSOLVENCY PETITION

(Section 19)

INSOLVENCY PETITION NO. OF 19

In the Court of________________________

Whereas A.B. has applied to this Court by a petition, dated__________ to be declared an insolvent under the Provincial Insolvency Act, 1920. and your name appears in the list of creditors filed by the aforesaid debtor, this is to give you notice that the Court has fixed the day of 19 , for the hearing of the aforesaid petition and the examination of the debtor. If you desire to be represented in the matter, you should attend in person or by duly instructed pleader. The particulars of the debt alleged in the petition to be due to you are as follows :—

Judge.

FORM NO. 4

ORDER OF ADJUDICATION

(Section 27)

In the Court of_________________________

Insolvency Petition No. of 19

Pursuant to a petition, dated, against (here insert name, description, and address of debtor) and on the application of (here insert "the Official Receiver" or "the debtor himself" or "A.B. of a creditor")' and on reading and hearing it is ordered that the debtor be and the said debtor is hereby adjudged insolvent.

It is further ordered that the debtor do apply for his discharge within

_____________ -(a)

on or before

Dated this__________________ day _______________

of _______ 19 .

Judge.

(a)· Here state the period or the date on or before which the insolvent must apply for his discharge.

FORM NO. 5

ORDER APPOINTING RECEIVER

{Section 56)

IN THE COURT OF_____________________

INSOLVENCY PETITION NO. __________ of 19

Whereas A.B. was adjudicated an insolvent by order of this Court dated . and it appears to the Court that the appointment of a Receiver for the property of the insolvent is necessary.

It is ordered that receiving order be made against the insolvent and a receiving order is hereby made against the insolvent and A.B. of (or the Official Receiver) is hereby constituted Receiver of the property of the said insolvent. And it is further ordered that the said

Receiver (not being the Official Receiver) do give security to the extent of and that his remuneration be fixed at
Dated____________

Judge.

FORM NO. 6

PROOF OF DEBTS

GENERAL FORM (SECTION 49)

(Title)

(a) Here insert number given in the notice.	In a matter of No. (a) of 19 .
(b) Address in full	I, of (b) make oath and say (or solemnly and sincerely affirm and declare)
1. That the said	was/were ____________ at the date of the petition. viz., the day of 19 and still is/are ____________ justly and truely indebted to me in the sum of Rs.
(c) State consideration and specify the vouchers (if any) in support of the claim.	for (c) as shown by the account endorsed hereon (or the following account). viz., for which sum or any part thereof, I say that I have not, no hath or any person by order to my knowledge or belief for use had or received any manner of satisfaction of security whatsoever save and except the following (d)'
(d) Here enter details of securities bills or the like.	
Admitted to vote for Rs.(________) Judge or Official. Receiver	Sworn at this day before me.

Deponent's Signature.
Commissioner.

FORM NO. 7

PROOF OF DEBT OF WORKMEN

(Title)

1. (a) of (b) make oath and say (or solemnly and sincerely affirm and declare).—

(i) That (c) was/were At the date of the adjudication, viz., the day of 19 , and still is/are justly and truly indebted to the several persons whose names, addresses and descriptions appear in the schedule endorsed hereon in sums severally set against their names in the sixth column of such schedule for wages due to them respectively as workmen or others in (d) in respect of services rendered by them respectively to (e0 during such periods before the date of receiving order as are set out against the irrespective names in the fifth column of such schedule for which said sums or any part thereof, I say that they have not, nor hath any of them, had or received any manner of satisfaction or security whatsoever.

(a) Fill in full name, address and occupation of deponent.

(b) The above named debtor or the foremen of the above-named debtor on behalf of the workmen and others employed by the above-named-debtor

(c) "I" or "the said".

(d) "My employ" or "the employ of the above-named debtor".

(e) "Me" or "the above-named the debtor."

Admitted to vote for Rs. Judge or Official Receiver.

Sworn at this day of before me

Deponent's Signature

Commissioner.

FORM NO. 8

NOTICE TO CREDITORS OF THE DATE OF CONSIDERATION OF A COMPOSITION OR SCHEME' OF ARRANGEMENT

(Section 38)

(Title)

Take notice that the Court has fixed the day of 19 for the consideration of a composition (or Scheme of arrangement) submitted by A.B. the debtor in the above insolvency petition. No. creditor who has not proved his debt before the aforesaid date will be permitted to vote on the consideration of the above matter. If you desire to be represented at the above-mentioned hearing, you should be present in person or by duly instructed pleader with your proofs.

Judge.

FORM No. 9

FOR UNDER SECTION 38

LIST OF CREDITORS FOR USE AT MEETING HELD FOR CONSIDERATION OF COMPOSITION, OR SCHEME

(Title)

Meeting held at this day of 19 .

Name of all creditors whose proofs have been admitted	Here state as to each creditor whether he voted and if so, whether personally or by pleader.	Amount of assests	Amount of admitted proof
		Total	

Required number of majority.

Required value Rs.

FORM No. 10

FORM OF NOTICE UNDER SECTION 64

NOTICE TO PERSONS CLAIMING TO BE CREDITORS OF INTENTION TO DECLARE FINAL DIVIDEND

(Title)

Take notice that a final dividend is intended to be declared in the above matter, and that if you do not establish your claim to the satisfaction of the Court on or before the day of 19 or such later day as the Court may fix, your claim will be expunged, and I shall proceed to make final dividend without regard to such claim.

Dated this day of 19 .

G.H.
Receiver

(Address)

FORM No. 11

ORDER ANNULLING ADJUDICATION UNDER SECTION 35

(*Title*)

On the application of R.S. of and on reading and hearing it is ordered that the order of adjudication, dated against A.B. of be and the same is hereby annulled.

Dated this day of 19 .

Judge.

FORM No. 12

NOTICE TO CREDITORS OF APPLICATION FOR DISCHARGE

(Section 41)

(Title)

Take notice that the above-named insolvent has applied to the Court for his discharge, and that the Court has fixed the day of 19 at O'Clock for hearing the application.

Dated this day of 19 .

Judge.

Note.—On the back of this notice the provisions of section 42(1) of the Insolvency Act V of 1920, should be printed.

FORM No. 13

ORDER OF DISCHARGE SUBJECT TO CONDITION AS TO EARNINGS, AFTER-ACQUIRED PROPERTY AND INCOME

[*Section* 41(c)]

(Title)

On the application of , adjudged insolvent on the, day of 19 , and upon taking into consideration the report of the Official Receiver (or Receiver) as to the insolvent's conduct and affairs and hearing A.B. and C.D. creditors :

It is ordered that the insolvent

(a) be discharged forthwith or

(b) be discharged on the _____________ or

(c) be discharged subject to the following conditions as to his future earnings, after-acquired property and income :—

After setting aside out of the insolvent's earnings, after acquired property and income, the yearly sum of Rs__________ for the support of himself and his family the insolvent shall pay the surplus, if any (or such portion of such surplus as the Court may determine), of such earnings, after acquired property and income to the Court or Official Receiver (or Receiver) for distribution among the Creditors in the insolvency. An account shall on the first day of January in every year or within fourteen days thereafter, be filed in these proceedings by the insolvent setting forth a statement of his receipt from earnings, after-acquired property and during the year immediately proceeding the said date and the surplus payable under this order shall be paid by the insolvent into Court or to the Official Receiver (or Receiver) within fourteen days of the filing of the said account.

Dated this day of 19 .

FORM No. 14

SUMMARY ADMINISTRATION
SECTION 74
(*Title*)

Notice to Creditors

Take notice that on the day of 19 , the above-named debtor presented a petition to this court praying to be adjudicated an insolvent and that on the day of 19 , the Court being satisfied that the property of the debtor is not likely to exceed Rs. 500 in value directed that the debtor's estate be administered in summary manner and appointed the day of 19 , for the further hearing of the said petition and the examination of the said debtor.

Also take notice that the Court may on the aforesaid date then and there proceed to adjudication and distribution of the assets of the aforesaid debtor. It will be open to you to appear and give evidence on that date. Proof of any claim you desire to make must be lodged in the Court on or before that date.

Given under my hand and the seal of this Court, the day of 19 .

Judge.

FORM NO. 15

REGISTER OF PERSONS ADJUDICATED INSOLVENT

Serial No.	Name of Insolvent	Date of adjudication	Date or period fixed for application for discharge	Name of Receiver	Security taken from the Receiver (if any)	Assets with estimated value	Liabilities with estimated value (secured or insecured debts to be shown separatedly)	Remarks

FORM NO. 15 – *Concld.*

ABSTRACT OF RECEIVER'S REPORTS SHOWING PROGRESS OF REALIZATIONS OF ASSETS AND DISTRIBUTION OF DIVIDENDS AND ABSTRACT OF ALL IMPORTANT ORDERS OF THE COURT AFTER ADJUDICATION

Date	Receiver's Report (give brief purport)	Orders of the Court on the Receiver's Report	Other important orders passed by the Court after adjudication with dates thereof

FORM NO. 16

PROPERTY REGISTER FOR INTERIM RECEIVER

Serial No. Date of adjudication

Number of Case (if any)

Name of Case

Date of interim appointment

Immovable Property		Movable Property other than Cash				Cash	Debts due to the Debtor			Documents and Title Deeds			Remarks
Particulars of property	How disposed of	Date of possession	Particulars	In what condition	Who disposed of	Date of receipt	Who disposed of	Date of Loan	Name of Debtor	Action taken, if any	Date of possession	Particulars	

Notes-1. One or more pages should be devoted to each estate according to the requirements of the case.

2. Entries to be made in the register in chronological order but an alphabetical index should be maintained in the beginning for facility of reference.

PART D: RULES UNDER SECTION 79 IN RESPECT OF OFFICIAL RECEIVERS

Security

Security from amount and reduction, verification and exemption from stamp duty.

1. Every Official Receiver in the Punjab/Haryana/ Chandigarh is required to give security of Rs. 10,000 in cash, Government Promissory Notes, or Stock Notes of Government of India or Fidelity Bonds of such Insurance Companies as are approved by the High Court. The mortgage of immovable property to Government widl also be allowed.

Whenever an Official Receiver is in charge of more than one revenue district, he shall furnish security to the above extent in each district separately.

The High Court may sanction the reduction of the security demanded from an Official Receiver if it is found that the average amount realised in his district over a period of five years is less than Rs. 10,000 per annum. The reduced security shall be not less than such average amount realised annually.

The forms in which different kinds of security bonds should be executed by the Official Receivers are printed in Part E of this Chapter.

Where securities other than Government Promissory or Stock Notes, have been or may be accepted, the following rules should be observed for the verification of such securities : —

(i) They should be verified through the Tehsildar.

(ii) In addition to ascertaining that the property really exists and that it is of the assorted value, enquiries should be made as to whether there are any prior liens on the property, and a proclamation should be issued in every case inviting claimants to appear within one month.

(iii) Should no claimant appear within the eriod the fact should be noted at the foot of the bond.

Note.—Security bonds and mortgage deeds executed by the Official Receiver under these rules are exempt from stamp duty under exemption (e) of article 57, Schedule I of the Indian Stamp Act II of 1899.

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*A Fidelity Bond is a Form of Insurance by which the Company binds itself to recoup losses of kind which are ordinarily covered by personal security.

I. LEAVE OF ABSENCE

Vacation allowed.

2. An Official Receiver will be entitled to remain on leave during the period when the Insolvency Court is closed for the summer vacation unless, for reasons to be recorded, the Judge of the Court otherwise directs.

Grant of leave.

3. (i) It has been decided by the Punjab Government in consultation with the Hon'ble Judges that District Judges should be allowed, subject to a report to the High Court, to grant leave of absence to the Official Receivers in their districts up to one month in a year. In the case of leave for longer periods, upto three months at any one time, the sanctioning authority will be the High Court. It is not contemplated that any Official Receiver should be given leave in excess of three months, except in altogether unusual circumstances but in a case of this kind does arise, it will be reported to Government.

(ii) In the case of short-term vacancies, it will nearly always be possible for local arrangements to be made (under the orders of the Hon'ble Judges) to carry on the work, and it will not be necessary for a substitute Official Receiver to be appointed. In the case of long vacancies (that is vacancies exceeding three months), it has been decided that when the Hon'ble Judges report the case to Government they will add their views whether the appointment of a substitute Official Receiver under section 57 of the Act is necessary. If so, proceedings to make an appointment will be taken in accordance with the procedure laid in Punjab Government letter No. 802-J-36/ 18370, dated the 4th June, 1936. Otherwise, if the Hon'ble Judges think that satisfactory arrangements can be made without a fresh appointment under section 57, they will issue the appropriate instructions.

II. CASUAL LEAVE

(i) The maximum amount of casual leave which an Official Receiver may enjoy in a period of 12 months commencing with the 15th April, in any year shall not ordinarily be more than twenty days. This is subject to the condition that more than ten days casual leave should not be allowed at a time and that no extra expense is thereby imposed on the Insolvents Estates Fund. Only one spell of ten days casual leave can be taken during this period and the balance of the leave should be enjoyed in driblets, spread over the year. Leave exceeding four days cannot be granted except in special circumstances on more than two occasions during the year.

(ii) Leave not exceeding four days at a time may be sanctioned by the Insolvency Judge. Leave exceeding four days is to be sanctioned by the District Judge.

(iii) If casual leave is not taken during any period of twelve months commencing from the 15th April, it cannot be accumulated and taken during a subsequent "casual leave" year.

(iv) The privilege of casual leave must not be abused and leave must not be granted when too much latitude in the grant of leave to an Official Receiver disturbs the arrangments of his work as Official Receiver and Court Auctioneer.

(v) Holidays may not be prefixed or affixed to casual leave but one Sunday, either at the beginning or end of the leave, may be combined with it. All other holidays shall be included in the period of leave taken, but such holidays will not be counted as casual leave enjoyed. Last Saturdays of each month may be observed as holidays where they are so observed by the Insolvency Court.

Casual leave may not be combined with the annual vacation of Subordinate Courts and ordinarily casual leave will not be granted so as to end or begin less than one week before or after the vacation.

TRAVELLING ALLOWANCE

Grant of Travelling Allowance.

4. "Official Receiver may, on previous sanction in Grant of writing granted in each case by the Insolvency Judge, charge against assets of a particular Estate or Estates concerned, actual travelling expenses incurred by them on journeys undertaken in the interest of any particular Estate or Estates".

Definition at "actual travelling allowance", Daily Allowance not permissible.

5. The term "actual travelling expenses" should be interpreted as defined in rule 2.4 of Civil Services Rules (Punjab), Volume I, Part I. No daily allowance can be allowed to the Official Receiver.

The journeys to be performed by the cheapest route.

6. The journeys must be performed by the cheapest route.

AUDIT

Cost of audit to be met out of estate.

7. In order to meet the cost of audit of the Insolvents Estates by Government, the Insolvency Judge shall deduct from realizations made by the Official Receiver a sum equal to 1¼% of realization and credit it to Government as provided under Rule 6 of Chapter 4-E.

POSTAGE

8. Expenditure on account of postage, after adjudication shall be met from the funds of the estate concerned.

OFFICIAL RECEIVERS' RECORDS

A separate record for each case to be kept..

9. The Official Receivers should maintain a separate record for each case showing in detail what action was taken on each day so as to provide a continuous history of the whole administration.

The Receiver to record all orders aud depositions.

10. All orders on these records should be written out by the Official Receiver in his own handwriting and the practice of leaving it to clerks to examine the parties or witnesses or to fix dates and to record any orders must be given up.

Parts A and B of the record

11. The record should be maintained in two parts—Part A for proceedings under section 80 of the Provincial Insolvency Act, Part B for all other proceedings.

Records and registers to be made over to the Court on completion.

12. The records and registers of the Official Receivers when complete should be made over to the Court for being made a part of the Court Records and being consigned to the Record Room along with them.

Index of papers to be maintained.

13. An index of papers in form No. 242, as given at page 2 of Part A-III Rules and Orders, Volume VI-A, should be maintained for all records.

DESTRUCTION OF RECORDS

14. The following Registers and Records shall be preserved in perpetuity:-

List of records and registers to be prescribed in perpetuity.

Form No. 1	--	Index Register.
Form No. 2	--	Register of Immovable Property
Form No. 7	--	Demand and Collection Register.
Form No. 8	--	Sale List of Property.
Form No. 9	--	Counterfoils of Receipts.
Form No. 14	--	Register of Receipts and Administration charges.
Form No. 15	--	Cash Book.
Form No. 17	--	Ledger Account.
Form No. 18	--	Deposit Register.
Form No. 19	--	Dividentg Register.
Form No. 20	--	List of office Furniture and Counterfoils of all cheques.

All audit objections and replies thereto.

15. The following Registers shall be preserved for fifty years from the date of the last entry:-

List of registers to be preserved for 50 years.

Form No. 4	--	Register of Movable Property.
Form No. 5	--	Register of Debts due to the Insolvent.
Form No. 6	--	Register of Title date.

16. The following shall be preserved for twenty years from the date of last entry and shall then be destroyed:-

List of records to be preserved for 20 years.

Form No. 10	--	Pay sheet of establishment.
Form No. 11	--	Contingent Bills.
Form No. 12	--	Permanent Account Register.
Form No. 13	--	Stamp Register.
Form No. 16.	--	Register showing closing balances.

PROCEDURE REGARDING SALE OF LAND IN ANOTHER DISTRICT

Procedure regarding sale of land in another district.

17. (i) When the property of an Insolvent is situated in a District other than that in which the adjudication takes place, the Insolvency Judge has the discretion to decide whether the Official Receiver should sell the property himself or ask the Insolvency Judge of the Other District in which the property is situated, to do so. In the latter case, the normal procedure should be for the Insolvency Judge to make a request to the Insolvency Judge of the other district under section 77 of the Provincial Insolvency Act, and for the latter Officer to appoint the official Receiver of his district, as receiver of the property in question for the purpose of selling it.

(ii) When the property of an insolvent is sold through the Insolvency Judge of another District and the sale proceeds have been realised, the Official Receiver after charging his commission shall remit the balance to the Insolvency Judge of the Original district togetherwith a statement of accounts duly attested - by the Insolvency Judge. The detailed account of the transactions and the records relating to the sale shall remain with the Insolvency Court of the other district and shall be audited there.

(iii) When money belonging to an Insolvent's Estate in the States of Punjab, Haryana, U.T. Chandigarh and Delhi State is realized at the request of the Insolvency Judge in another State and vice versa, the procedure for keeping the records and accounts shall be the same as given in sub-paragraph (ii) above, except that the copies of the records shall be sent to the Insolvency Court of the other State,

PART E.—RULES UNDER SECTION 79 OF THE PROVINCIAL INSOLVENCY ACT IN RESPECT OF MAINTENANCE OF' ACCOUNTS.

Insolvent Estate Fund.

1. All sums realised from the Insolvents Estates shall, in the first instance, be credited in the District Treasury without delay, to the personal ledger account in the name of the Distric t Judge of the Insolvency Judge to be styled as "Insolvent Estate Fund" for recording the transactions of Insolvent Estates dealt with by the Official Receivers.

Official Receiver's Remuneration Fund.

Sums ordered to be paid under clause (b) of sub-Official sub-section (2) of section 56 of the Provincial Insolvency Act in respect of the remuneration of Official Receivers shall be taken out of the above fund and credited into the District Treasury (or a Sub-Treasury), in the name of the Insolvency Judge under the heading "Official Receiver's Remuneration Fund".

Amount realised to be deposited by the official Receiver by the next morning. Receipt to be given to the depositor.

2. The amount received each day by the Official Receiver shall be paid into the Treasury on the morning of the next working day if not on the day of receipt. All remittances to the Treasury should be accompanied by a challan in triplicate and the Treasury Receipts for the amount paid in shall be filed in a Guard File. The Pass Books will be supplied by the Treasury free of cost. The Official Receiver shall prepare a receipt in foil and counter-foil for the money received by him from each depositor, the foil being issued to the depositor as a receipt for the money deposited.

Payment shall be by cheques.

3. All payments from the Treasury shall be made by means of cheques signed by the District Judge or Insolvency Judge.

Note.—The cheques shall be prepared by the Reader of the Insolvency Judge and written with registration ink obtainable from the Controller of Printing and Stationery.

Remuneration of Receiver payable by cheque.

4. At the close of each month the amount available for the remuneration of the Official Receiver shall be drawn from the Treasury by means of a cheque on presentation of a regular bill by the Official Receiver through the District Judge or Insolvency Judge.

Office and other charges and payment to creditors payable by cheques.

5. Amounts payable to creditors and miscellaneous charges shall similarly be drawn by cheques on presentation of regular bills by the Official Receivers through the District Judge or Insolvency Judge.

Audit expenses to be credited monthly in the treasury as a distinct item.

6. At the close of each month the amount at credit of the audit expenses account shall be drawn from the Treasury by the District Judge or Insolvency Judge and credited to Government by transfer as a distinct item in the cash account. The Treasury Officer will intimate the amount so drawn to the Official Receiver at the close of each month.

Disposal of money unclaimed by creditors.

7. Money unclaimed by creditors should not be kept in deposit indefinitely but should be dealt with in accordance with the provisions of rule 4.59 of the Subsidiary Treasury Rules (Financial Hand Book No. 1). Items which have remained undisbursed and lain in deposit for over a year should lapse to Government. Should the claimants subsequently appear and claim the items, these should be re-drawn for payment in the manner prescribed by rule 4.130 and 4.140 of the Subsidiary Treasury Rules. Amounts of less than two annas due for refund should be credited direct to Government.

Index Register to be kept.

8. An Index Register giving reference to Pages of the several registers in which the transactions of insolvent estates are recorded from time to time should be kept in Form No. 1 in which the names of insolvents should be entered in chronological order. An alphabetical index giving reference to the Pages of the register should be maintained in the beginning for facility of reference.

Assets and liabilities of the debtor to be entered in registers specified.

9. When an order of adjudication is passed, the assets and liabilities of the insolvent, as shown in the petition or otherwise known, should be brought on to the registers noted below :—

No. 2 Register of immovable property.
No. 3 Register of movable property.
No. 4 Register of debts due to insolvents.
No. 5 Register of debts due from insolvents.

Insolvents account book and other documents to be entered in a special register.

10. Accounts books, title, deeds, etc., taken possession of by the Official Receiver should be entered in a register to be kept in Form No. 6.

Details of disposal of property to be entered in registers specified.

11. When any property is disposed of by sale or in any other manner the details of the disposal should be entered in the appropriate columns of the above registers.

Entry of proved debts in registers.

12. Debts proved from time to time should be recorded in columns 6 to 10 of Register No. 5.

Demand and Collection register watch recovery of rents and unrecovered balances.

13. Rents and other income which may accrue from any property as well as the unrecovered balance due, if any, on account of its sale proceeds, when sold, should be watched by means of a Demand and Collection Register to be kept in Form No. 7, in columns 1 to 8 of which the demands should be posted as they occur. When a payment is received on account of any such demand the necessary entries should be made in the appropriate columns and the money should then be brought to account in the cash book in the usual way.

The Demand the Collection Register shall be balanced and closed at the end of each year and the outstanding balance struck, shown in columns 13 and carried forward to the next year's register and a certificate to this effect furnished by the Official Receiver.

Bills of sale to be recovered in sale list register.

14. When a property is sold by public auction the bids should be recorded in a Register or sale list to be kept in Form No. 8.

Note.—The intermediate bids for movable property ,other than livestock likely to fetch not more than Rs. 20 need not, however, be recorded in detail in this register.

Receiver to issue receipts for sums received.

15. Any sum received by the Official Receiver should be acknowledged on a receipt in Form No. 9 (foil and counterfoil) the foil of which should be handed over to the person paying the money and the counterfoil retained for audit purposes.

Receipts book Number of forms, etc.

16. The receipt books should have an equal number of forms and bear the printed book and serial numbers.

Note 1.- Receipts need not issue on sale of movable goods.

Note I.—No receipt need be issued ordinarily in cases of movable goods of insolvents sold by public auction unless one is especially desired by the purchaser. The sale list mentioned in Rule 15 above shall be considered as sufficient ordinarily for audit purposes ; provided it is signed or thumb-impressed by each and every purchaser against the article or articles sold to him and attested by the Official Receiver and insolvents concerned.

Note 2.- Only printed prescribed receipts forms to be used.

Note 2.- All receipts must be issued invariably on the printed form prescribed by these rules. The practice of issuing "Kacha" or manuscript receipts on plain paper is dangerous and must never be resorted to.

Note 3.- One printed receipts to be prepared for all maounts received by money order during the days. Money order coupons to be retained for audit.

Note 3.—In order to avoid any risk of defalcation the Official Receiver must prepare a receipt in the prescribed form for all the amounts recevied by him by money order. There is, however, no need of sending the foils to the different payees as each of them gets the postal acknowledgement. The Official Receiver can prepare one consolidated receipt for all the amounts received by money order during the day and attach the foil of this receipt to the money order coupons to show that the money has been accounted for in the cash book and credited to the Insolvents Estates Fund. The money order coupons should be retained for audit purposes.

Note 4.-Printed receipts to be issued for sums received from Court.

Note 4.—Receipt must be issued for amounts received by the Official Receiver from the Insolvency Court itself, e.g., on account of unspent received under Rule 55, Chapter 4-C, Rules and orders, Volume II.

Note 5.- Number of forms of receipt books to be certified before use.

Note 5.—All the receipt books should be counted and a certificate to the effect that the book contains so many pages recorded on the first page under the signatures of the Official Receiver before they are actually brought into use.

Note 6.- Of receipt should be noted on money order coupons.

Note 6.—The dates of receipt of money should be endorsed by the Official Receiver on the money order coupons.

Note 7.- Receipts for sums in excess of RS. 20 to be stamped.

Note 7.—Receipts issued by Official Receivers for sums in excess of Rs. 20 shall be duly stamped and the cost thereof borne by the Official Receivers out of their own commission.

17. The Official Receiver shall draw half the remuneration due to him at the time of realisation and half at the time of distribution of assets. Register No. 14 will have columns 5 and 6:- Commission how to be drawn.

Commission at the time of realisation.
Commission at the time of distribution of assets.

18. Contingent expenditure includes all charges, other than those of establishment. All contingent charges should be drawn on a bill in Form No. 11. Contingent charges how to be drawn.

19. The Official Receiver may be allowed a permanent advance of such sum as may be fixed by the Insolvency Court from time to time to meet expenses, for which, in the opinion of the Official Receiver, the money cannot conveniently be otherwise obtained. Permanent advance to receiver.

20. The Official Receiver may incur such expenditure out of his permanent advance without obtaining the previous sanction of the Insolvency Court : Provided that a limit of Rs. 20 in the case of each item of expenditure shall not be exceeded, except in the case of purchase of stationery, where such limit shall be Rs. 5. When it is necessary to exceed such limits, the previous sanction of the Court shall be obtained. Permanent advance not to be spent without sanction of the Court.

21. The Official Receiver should keep a permanent advance account in Form No. 12 in columns 1 to 6 of which should be entered the items of expenditure as they occur. Permanent advance account to be kept.

22. When the cash in hand is running low and in any case on the last working day of each month, the permanent advance should be recouped as follows :— Permanent advance how to be recouped.

A line should be ruled across the page of the permanent advance account and the totals debitable to each estate or other head of account should be posted in a contingent bills in form No. 11. The Bill supported by vouchers and signed by the Official Receiver should then be laid before the Court for payment.

23. When a cheque in payment is received, the details should be entered in the cash book and the amount drawn classified in the various ledger accounts concerned. Entry of receipt by cheque to be made in books

Annual certificate of permanent advance.

24. On the 1st April of each year the Official Receiver should submit to the Insolvency Judge a certificate to the effect that the permanent advance is held by him, and that he is responsible for it. The Insolvency Judge will preserve these certificates in his office.

Postage stamp charges to be met from permanent advance.
Stamp Register.

25. Stamps and the postage charges should ordinarily be met from the permanent advance, but in order to enable a check to be kept upon the number of stamps expended and debited to the estate concerned, a stamp register should be maintained in Form 13.

Remuneration of Official receiver how drawn.

26. Soon after the close of a month, the amount of remuneration drawn by the Official Receiver, and the audit fee, are to be abstracted in a contingent bill and laid before the court for order of payment in the following manner :—

(1) Pay Rs. __________ by transfer credit to the "Official Receiver's Remuneration Fund".
(2) Pay Rs.___________ by transfer credit to the Government (being the amount of Audit Fee).

Remuneration of Official Receiver how drawn.

27. Separate cheques will then be drawn in favour of the Official Receiver and the Treasury Officer. The former will be on account of commission fee for credit to the Official Receiver's Remuneration Fund and the latter on account of audit fee to be credited to Government.

Remuneration of Official Receiver how drawn.

28. The whole amount of the bill and fees should then be shown on the expenditure side of the cash book and that representing "Official Receivers Commission" should be shown by a per contra entry on the receipt side.

Adjustment to be made where administration charges are levied on total Sum agreed to be paid in cases of compromise or settlement.

29. An Official Receiver is entitled to draw administration charges on the total sum agreed to be paid by an insolvent to his creditors by compromise or settlement. Any administration charges drawn in previous months on account of such estates should be adjusted aginst the sum finally to be drawn on this account. Any amount received in cash as administration charges in such cases, should first be accounted for in the cash-book and then drawn in the usual way. In such cases the amount agreed on in the compromise should be shown in column No. 4 of register No. 14.

30. The cash-book entries should ordinarily be made by the Official Receiver himself. But when the Official Receiver is away from the station or if it is not possible for him to write the cash-book personally without detriment to his other duties the work of making the entries in the cash-book may be entrusted on the responsibility of the Official Receiver, to his clerk, provided the Official Receiver, initials each entry in the cash-book in token of having checked it.

Entries in cash-book to be made by receiver in his own hand.

31. Amounts payable to secured creditors should, after deducting the administration charges, be paid as soon as they are claimed. Such payments need not be held over till a dividend is declared. The number, date and amount of the cheques drawn for such payments should be noted in the remarks column of register No. 5 against the entry concerned.

Payment to secured creditors not to be held over till dividend is declared. Entry of payment.

Note.—When the purchased of any property held under security *is* the secured creditor himself he may retain the amount of his secured debt less administration charges and tender for credit only the amount of administration charges and the difference between the sale-prcceeds and the secured debt. This difference should be accounted for in the ordinary way. The amount of administration charges on such secured debts should also be brought to account in the cash-book and then drawn in the usual way. In such cases also columns 4 and 5 of Register No. 14 will remain blank while the amount of secured debt should be shown in column No. 6 of the register.

Crediting of administration charges on sales where secured creditor is himself purchaser.

If the property held under security has been sold on a written application of the creditor, the administration charges shall be credited into the Treasury by the purchaser (if he is the secured creditor, irrespective of the fact that the sale price of the security is less than the debt, and an intimation sent to the Official Receiver that this has been done.

32. The Official Receiver shall early in April each year, forward to the Accountant-General. Punjab, a statement certified by him showing all amounts credited to Government on account of audit charges in the preceding financial year.

Annual certificate of amounts credited to Government for audit charges.

33. Moneys pertaining to Insolvent Estates Fund with the exception of authorised advances should not be kept apart from the general balance at the credit of the fund, but should at once be credited to the appropriate head of account, the adjustment of such an advance to be watched through the Demand and Collection Register.

Money pertaining to Insolvent Estates Fund should not be kept apart from the general balance.

All receipts for money should be duly accounted for.

34. When any money is received the Official Receiver should bring the amount to account in the cash-book kept in Form 15 and sign a receipt in Form No. 9 for it, the foil of which he should give to the person paying the money.

Mode of entry in cash-books of remittances to treasury.

35. Money remitted to the Treasury in accordance with the procedure laid down in Rule 2 should be entered in columns 8 and 9 of the cash-book under the initials of the Official Receiver.

Payment on a bill should be by a cheque.

36. After an order for payment has been passed on a bill, a cheque should be drawn in the name of the actual payee and the necessary entry made in the cash-book. The bill should then be stamped "paid by cheque No.—" and filed for purposes of audit.

Comparison of cash-book with Treasury Passbook.

37. The cash-book should be totalled and balanced at the end of each month and signed by the Official Receiver. It should at the same time be compared and agreed with the Treasury Passbooks in the manner prescribed in rule 54 below and any differences should be explained and accounted for in a foot-note in the following manner :—

		Rs
Balance as per Passbook	...	
Add amount of permanent advance	...	
Money received too late for remittance to treasury	...	
Total	...	

Deduct.—

Outstanding cheques as per details below :

Balance as per cash-book

Cheques outstanding on

No. ________ dated ________ Amount __________

Note.—The balance appearing at the end of the month in the Pass book pertaining to the accounts of the "Official Receiver Remuneration Fund" should be noted separately in the cash-book and the same should be compared and agreed with the balance in the ledger account of the Fund concerned. Any different should be explained.

Closing balance in cash-book must agree with the total of closing balance of ledger accounts.

38. The closing balance in cash-book must agree with the total of closing balance shown in the various ledger accounts. In order to ascertain that they agree with each other, the closing balance in the various ledger accounts should be abstracted in a register to be kept in Form 16.

Note.—This register, may, however, be dispensed with in place where the number of ledger does not exceed 25. In places where the register is dispensed with the closing balance in the various ledgers should be shown at the foot of the cash-book for facility of comparison.

Separate ledger accounts.

39. For the purposes of classifying the income and expenditure posted in the cash-book, a ledger account should be maintained in Form 17.

Several pages of the ledger should be set apart for each estate and for the heads of account, viz., "Official Receiver Remuneration Fund" and "Deposits". The ledger accounts should be balanced monthly. Every receipt and disbursement shown in the cash-book should be posted in the ledger concerned on the date of transaction.

Cheque Books how obtained and kept.

40. Cheque Books are obtainable direct from the Treasury Officer on payment, the cost being met from office charges. Every book should be kept under lock and key of the Insolvency Judge.

Cheques to be counted before use.

41. When a cheque book is received the drawing officer should cause the cheques to be counted and a note to be recorded on the back of each cheque book, that "this cheque book contains________________cheques".

Cheque book how to be dealt with when drawing officer relinquished charge.

42. When the drawing officer is relieved of his office he should take a receipt for the correct number of cheques made over to the relieving officer, a specimen of whose signature should be forwarded to the treasury concerned by the relieved officer.

Drawing officer responsible for safe custody of cheque books.

43. The drawing officer should be personally responsible for the safe custody of the cheque books.

Cheque to be signed only when required for immediate delivery.

44. No cheques should be signed unless required for delivery without delay to the person to whom the money is to be paid.

Directions for filling in cheques.

45. When a cheque is drawn an amount a little in excess of the sum for which the cheque is drawn should be written across it, and its counterfoil, in red ink against any entry of "Under Rupees" as a preventive against fraud.

Cheques remain current for three months.

46. Cheques issued remain current for three months from the date of issue.

Undelivered cheques to remain in persona! custody of Receiver.

47. If for any special reason signed cheque is not immediately delivered to the payee it should remain in the personal custody of the Official Receiver until it is delivered to the person for whom it was prepared and a receipt obtained.

Cheques not encashed within - Three months.

48. When a signed cheque delivered to a person for whom it is drawn, is not presented at the treasury for encashment within three months of the date of its issue, it may be returned to the court issuing; which will destroy it and draw a new cheque in lieu of it. The fact of the destruction and number and date of the new cheque shall be entered in the cash-book against the original transaction and the number and date of the old cheque upon the counterfoil of the new one.

Disposal of undelivered cheques or money orders returned.

49. When a signed cheque *(vide* rule 47) is not delivered to the person in whose favour it is drawn within the period the cheque is current, it should be cancelled under the initials of the District or Insolvency Judge and the amount thereof should be entered in the cash-book on the day of cancellation as a receipt under the head "Deposit" and the amount should at the same time be entered in the appropriate column of the Deposit Register in Form 18.

Note.—The same procedure should be followed when any money orders addressed to a creditor come back as "returned" or "refused" for any reason. The amount should be entered in the cash-book as a receipt under the head "Deposit" and at the same time entered in the appropriate columns of the Deposit register.

50. Cancelled cheques should be carefully retained until the accounts for the period to which they relate have been audited. They should then be destroyed by or in the presence of the audit officer, who should certify upon the counterfoil that the cheque has been destroyed and the amount thereof transferred to "Deposit Account". Disposal of cancelled cheques.

51. The Official Receiver should have a treasury passbook which is obtainable free of cost from the treasury. No entry or mark of any kind should be made in the passbook by any official of the Official Receiver's establishment. All entries in the passbook should be made in the treasury only. Entries in treasury pass-book to be made only by the treasury.

52. The passbook should be kept under lock and key in the personal custody of the Official Receiver. book to be kept in per sonal custody Treasury pass-book to be kept in personal custody of the Receiver.

53. All sums paid into the treasury for credit to Insolvent Estate Fund, and all payments made on cheques should be shown in the passbook which should be periodically sent to the-treasury to be written up. At the close of each month the entries on each side of the passbook should be totalled and a balance struck under the signatures of the Treasury Officer. Pass book to be sent to treasury from time to time to be written up. Monthly total and balance.

54. At the end of each month the receipts and expenditure shown in the passbook should be checked item by item with the cash-book and cheques outstanding should be noted in detail at the foot of the cash-book in accordance with Rule 37. Comparison of pass book with the cash-book.

If any delivered cheque appears to be outstanding for more than three months from the date of issue, it should be shown, as cancelled in the manner laid down in rule 49 and the amount thereof transferred to the Deposit Account.

55. The necessary particulars of the amounts transferred to "Deposit Account" under rules 49 and 54 should be posted in a Deposit Register to be kept in Form No. 18. Stock of all movable property etc., to be checked yearly.

Accounts to be maintained according to financial year.

56. Deposits, when claimed, will be drawn on contingent bill, Form 11, and disbursed in the ordinary way.

Accounts to be audited once a year.

57. Deposits outstanding at the end of a year will be carried into the next year's register, in the first two columns of which should be shown the date of original credit and the annual number originally assigned to the deposit.

Disposal of deposits not claimed within one account year.

58. Deposits not claimed within one account year should be drawn on a contingent bill and the money remitted to the Government Treasury for transfer credit under the head "XXI—Administration of Justice", Subhead "Unclaimed Property".

Accounts of summary Administration also to be audited.

Note.—In addition to individual accounts of each deposit to be kept in Form 18 the daily total of the receipt and expenditure on account of above deposits should be posted in the ledger account. Form No. 17, in which a few pages should be set apart for the purpose of showing deposit transactions.

Note 2.—The deposits mentioned in this rule which have remained unclaimed for at least one year should be lapsed at the close of March in each year.

Refund of assets when no debts are proved.

59. Realized assets of an insolvent none of whose creditors has proved his debt should, on his absolute discharge or the annulment of the insolvency proceedings, be refunded to him in the following manner:—

The Court should issue a notice in such cases to the insolvent or his heirs, as the case may be, calling upon him or them to appear within a certain peroid, to be fixed by the court from the date of the despatch of the notice, to obtain the refund, failing which such assets should be transferred to the deposit account in the manner prescribed in rule 49 of this Chapter and ultimately lapsed to Government.

Amount of dividend declared to be drawn on contingent bill and to be disbursed in cash or by post.

60. (i) The amount declared to be paid as dividend shall be drawn on a contingent bill in Form 11. Details of names and the amounts payable to each person shall be shown before the bill is presented to the Court for order of payment. The requisite particulars shall at the same time be posted in the Dividend Register to be kept in Form 19.

(ii) After the order of payment has been made, the Official Receiver shall forthwith issue notice to all creditors calling upon them to appear within twenty days of the despatch of the notice to take payment in cash, failing which the money due will be remitted by post at their expense and risk.

(iii) On the expiry of the period allowed by the notice, the Official Receiver shall remit by money order, at their own risk and expense, the dividend due to all creditors who have not taken payment in cash. If the amount is too large to be remitted by a single money order, it should be spread over the requisite number of money orders. The Insolvency Judge shall cancel any cheques in favour of persons who have not taken payment in cash.

(iv) Notwithstanding any of the foregoing provisions the Official Receiver may remit by post without previous notice and at the risk and expense of the creditor the dividend due to any creditor who has consented in writing to this being done.

Note.—Small payments of sums less than Rs. 10 may be made in cash out of the permanent advance granted to the Official Receiver under Rule 19.

Bills should be kept with sub-vouchers in guard files.

61. Bills should be numbered serially for each month and should be filed with Sub-vouchers in support of them in the Official Receiver's Office in guard files and separate from *puals*.

Note.—All sub-vouchers shall be cancelled at the time when the relevant contingent bill is actually signed by the drawing officer.

Furniture list to be kept.

62. Articles of office furniture purchased from time to time for the office of the Official Receiver, should be shown in a list to be kept in Form 20, and to be hung up in the Official Receiver's Office.

Accounts to be maintained according to financial year.

63. The accounts of Official Receivers shall be maintained according to the financial year.

Accounts to be audited once a year.

64. The accounts maintained by the Official Receiver should be audited, as far as possible, once a year under the orders of the Accountant-General, Punjab/Haryana/H.P.

and Chandigarh by the Examiner, Local Fund Accounts, and a staff of peripatetic auditors, provided that a Judge of the High Court may, in special cases pending in the High Court, direct audit inspection by an agency other than the Accountant-General, Punjab/Haryana/H.P. and Chandigarh.

Accounts of summary administration also to be audited.

65. The accounts maintained in cases dealt with summarily by the Insolvency Courts under section 74 of the Act shall also be audited.

All necessary material to be supplied for audit.

66. The Insolvency Judge should cause to be placed at the disposal of the auditors all account registers, documents, etc., which may be required by the Audit Officers.

Audit result to be sent to Insolvency Judge and High Court.

67. The result of the audit will be communicated in audit and inspection notes to the Insolvency Judge and the High Court of Punjab and Haryana, Chandigarh.

Audit and Inspection notes how to be dealt with.

68. The Insolvency Judge should deal promptly with the audit and inspection notes.

The Official Receiver's report on these notes should be submitted in the following form :—

(1) Nature of objection.

(2) Official Receiver's remarks.

(3) Remarks by the Insolvency Judge.

(4) Order of the District Judge.

Copy of the annotated notes to be forwarded to the Examiner of Accounts and another copy to be kept in office. Objection statement how to be dealt with.

69. A copy of the annotated note should be forwarded to the Examiner of Local Fund Accounts and a copy kept and produced for the information of the inspecting officer. The objection statement, which accompanies the audit report should, after the objections recorded therein have been replied to, be kept and put up before the auditors at the next visit.

Only prescribed forms to be used.

70. No forms other than those prescribed in these rules should be used except with the sanction of the High Court which shall not be accorded without the concurrence of the Accountant-General in the Local Audit Department.

71. Books of accounts and registers shall be strongly bound and paged before being brought into use and all account registers should be counted and a certificate to the effect that they contain so many pages recorded on the covering sheet, before they are brought into use.

Account books and registers to be bound and counting of pages to be certified.

72. Stock account of all account registers, books, and forms should be maintained in form 21 appended to these rules. As the receipt books bear potential money value, they should be kept under the personal custody of the Official Receiver.

Stock account of all registers, etc., should be maintained.

73. In the matter of details connected with the account not provided for in the rules, the Official Receiver should be guided by the instructions of the Accountant-General in Local Audit Department.

Accountant-General to be consulted in account matters not provided for in rules.

74. Corrections and alterations in accounts shall be made in red ink and attested by the Official Receiver. Erasures should, on no account, be allowed.

Erasures in accounts not allowed. Corrections and alterations to be made in red ink and initialled.

FORM NO.1

INDEX REGISTER

Reference of Page to Registers

Name and Father's name of Insolvent	Number and year of case	Date of adjudication	Register of movable property	Register of immovable property	Register of debts due to insolvent	Register of debts due from insolvent	Register of title deeds and account books	Demand and Collection Register	Ledger	Dividend Register	Date of Discharge	Remarks
1	2	3	4(a)	4(b)	4(c)	4(d)	4(e)	4(f)	4(g)	4(h)	5	6

FORM NO.2

REGISTER OF IMMOVABLE PROPERTY OF INSOLVENT

Case No. of 19

Serial No.	Particulars of Property	Where situated	Extent of share or interest of insolvent	Estimated value by insolvent or creditor	Name of mortgage, if any	Amount of mortgage	Reference to order, if released	Reference to page of Demand and Collection Register, if leased or given on rent	Date of Adjudication	Amount for which sold		Amount released		Remarks
										Date of auction and Serial No. sale list	Amount	Number and date of Receipt	Amount	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

FORM NO.3

REGISTER OF MOVABLE PROPERTY ____________________ INSOLVENT

Case No. of 19 .

Serial No.	Description of property	Number of article	Value as per insolvency petition	Date of adjudication	Date of possession by the Official Receiver	In what condition	Reference to order, if Released	**Sale Proceeds**			Signature of Official Receiver	Remarks
								Reference to Serial No. in the sale list	Number and date of receipt Challan	Amount		
1	2	3	4	5	6	7	8	9	10	11	12	13

FORM NO.4

REGISTER OF DEBTS DUE TO ____________________ INSOLVENT

Case No. of 19 .

Serial No.	Name and Address of person against whom the claim is alleged	Nature of debt or claim	Particulars of any securities held for debt	Date of loan	Amount	Whether good, doubtful or bad	Initials of Official Receiver	Manner of recovery, i.e., by auction or otherwise	Amount received		Remarks
									No. and date	Amount	
1	2	3	4	5	6	7	8	9	10	11	12

FORM NO.5

REGISTER OF DEBTS (SECURED AND UNSECURED) DUE FROM___________________ INSOLVENT

Case No. of 19 .

Serial No.	Creditor's name with address	Nature of creditor's claim	Amount of debt	Date of loan	Reference to order determining the debt as proved	Amount of debt proved				Remarks
						(Secured)		(Unsecured)		
						Principal	Interest	Principal	Interest	
1	2	3	4	5	6	7	8	9	10	11

FORM NO.6

REGISTER SHOWING TITLE-DEEDS, DOCUMENTS AND ACCOUNT BOOKS WHICH CAME TO THE HANDS OF OFFICIAL RECEIVER IN THE CASE OF ____________________ INSOLVENT

Case No. __________ of 19 .

Serial No.	Detail	Number	Remarks
1	2	3	4

FORM NO.7

DEMAND AND COLLECTION REGISTER FOR THE YEAR________NAME OF ____________________ INSOLVENT

Case No. ___________ of 19 .

Serial No.	Name and address of Person by whom the demand is payable	Nature of demand and installment	Reference to order, if any	Demand		Total	Signature of Official Receiver	Amount Realised		Remitted		Balance carried to next year's register	Initials	Remarks
				Arrears	Current Demand			Number and date of receipt	Amount	Reference to order	Amount			
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

FORM NO.8

Note.- When land is given on lease for a number of years and the lease-money is to be paid by yearly instalments, the total amount recoverable the whole period should not be shown at the very start as “arrears” in column No. 5. The total demand and the instalments to be received should be noted down in column No. 3 for “Nature of Demand and Instalments”.

SALE LIST OF PROPERTY SOLD BY THE OFFICIAL RECEIVER OF __________________ DISTRICT

Serial No.	Date of sale	Particulars of Property	Number of articles, if any	Name of estate	Reference to page No. of property register	Amount for which sold	Amount recovered at the time of sale	Balance left due	Name of bidder	Thumb impression or Signature of purchaser, i.e., final bidder	Number and date of receipt issued	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13

FORM 9

COUNTERFOIL OF RECEIPT	RECEIPT
Book No.____________ Receipt No. ____________ ________________ Received from ____________ on account of ____________ the sum of Rs.____________ ________________ for credit to the estate of ______ No. ________________ Date ________________ District ________Official Receiver	Book No.____________ Receipt No. ____________ ________________ Received from ____________ on account of ____________ the sum of Rs.____________ ________________ for credit to the estate of ______ No. ________________ Date ________________ District ________Official Receiver

FORM NO. 10

VOUCHER NO. _______________ OF MONTH

Pay sheet of the establishment of Insolvent Estates' Fund in the District _______________ for the month of ________________________________

Name of Incumbent	Name of Post	Pay and Allowance claimed	Pay and Allowance held over for future payment	Deduction	Net Charge for each person	Acquittance of payee	Remarks
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
	Total						
Deduct Undisbursed pay-Other deductions							
	Total						
Net aount required for payment Rs.							

Place ______________________

Date ______________________

Pay Rs. (   ) ______________

Date ________________________________No.

and date of cheque

OFFICIAL RECEIVER

District ________ Judge

Insolvency

FORM No. 11
CONTINGENT BILL

District	Voucher No.	of
Serial No. of sub-voucher	Particulars	Amount
	Rs.	
	Total Rs.	

FORM NO. 12
PERMANENT ADVANCE ACCOUNT

Date	No. of sub-voucher	To whom paid	Particulars of payment	Name and estate or other head of account to whome debitable	Amount	Remarks (No. and date of cheque on which recouped)
1	2	3	4	5	6	7

FORM NO. 13

STAMP REGISTER (TO BE KEPT FOR CHARGES DEBITABLE TO "OFFICE CHARGES"

Stock				Expenditure					
Date	Value of stamps in hand at the commencement of the day	Value of stamps received during the day	Total stock	Name and address of person to whom cover was sent	Brief contents of cover	Value of stamps affixed	Daily total of value expended during the day	Balance in hand at the close of the day	Remarks
1	2	3	4	5	6	7	8	9	10
	Rs.	Rs.	Rs.			Rs.	Rs.	Rs.	

FORM NO. 14

REGISTER SHOWING RECEIPTS AND ADMINISTRATION CHARGES FOR THE MONTH OF________________________19

Serial No.	Name of Insolvent	Reference to page of ledge	Amount realised or agreed to be paid in compromise in last preceding month	Administration Charges					Total	Remarks
				Commission drawn at the time of realization	Commission drawn at the time of distribution of assets	Total	Audit fee at Rs. 1.25 per cent	Office charges at Rs. 1.25 per cent		
1	2	3	4	5	6	7	8	9	10	11
			Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
	Total									

FORM NO. 15
CASH BOOK

Date	Receipts						Remittance to Treasury		Expenditure							
	Follo No. of Ledger	On what account and from whom received	No. of receipt of challan	Amount	Daily Total	Progressive Total	No. and due of challan	Amount remitted	Date	Follo No. of ledger	On what account and to whom paid	No of voucher and cheque	Amount	Daily Total	Progressive Total	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17

Note.- An explanation should always be record in the remarks column to explain the delay, if any, in sending the amounts received to the Treasury.

FORM NO. 16

REGISTER SHOWING CLOSING BALANCE AT THE CREDIT OF EACH ESTATE OR OTHER HEAD OF ACCOUNT DURING THE YEAR ______________

Particular of Ledger	April, 19	May, 19	June, 19	August, 19	Septem ber, 19	October, 19	November, 19	Decem- ber, 19	Jan., 19	Feb, 19	March, 19	Remarks
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Office Charges ..												
Deposit Account ..												
Estate ..												
Ditto ..												
Ditto ..												
Total ..												

FORM NO. 17

LEDGER ACCOUNT OF THE ESTATE ____________INSOLVENT

Case No. ______________of 19

Date	Received			Remarks	Disbursed				Remarks
	From whom received and on what account	Number of receipt	Amount		Date	To whom paid and on what account	Number of voucher	Amount	
			Rs.					Rs.	

FORM NO. 18
DEPOSIT REGISTER

Date	Annual Serial No.	Name of Estate	Name and address of depositor	Purpose of deposit	Amount	Signature of Official Receiver	Particulars of repayment				Signature of Official Receiver	Balance at the end of the year	Remarks
							Date	Number of cash book voucher	Amount	Prpose for which drawn whether for payment to deposit or for credit to Government.			
1	2	3	4	5	6	7	8	9	10	11	12	13	14

FORM NO. 19

DIVIDEND REGISTER

In the matter of the estate of ______________________Insolvent

Case No.________________of 19

1^{st},2^{nd} or 3^{rd} dividend as the case may be ________________________________

Present Dividend declared on ____

Amount available for disbursement Rs.__________________________________

Amount of present dividend Rs drawn on cash book voucher

Rate per rupee on proved liabilities No.___________Dated ___________

Serial No.	Schedule No. of creditor	Name of creditor	Original amount of debt admitted to schedule	Amount paid therefrom up-to-date of his dividend	Balance due to creditor	Amount payable under this dividend	Number and date of cheque on which drawn	Date of handing over cheque to the payee	Date of cancellation of cheque and transfer of	Number of deposit register	Balance still due to creditor	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13
			Rs.	Rs.	Rs.	Rs.					Rs.	

FORM NO. 20

LIST OF OFFICE FURNITURE

Serial No.	Particulars of furniture	Date of Purchase	No. and month of cash book's voucher	Value	Purpose for which It is used	Signature of official receiver	Remarks
1	2	3	4	5	6	7	8

FORM NO. 21

STOCK BOOK SHOWING DETAILS OF THE ARTICLES OF STATIONERY, ETC., RECEIVED OR ISSUED DURING THE YEAR 19 . IN THE OFFICE OF THE

From whom received or to whom issued	Date of receipt or issue	Cost or value realised on permanent articles only (marked)																					Remarks including signatures of persons to whom articles have been issuec
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
Receipts In stock on 1sr ______19																								
Total receipt during _______19																								
Issue Total issues during _______19																								
Balance in stock on 1st ________19																								

Note.- All entries in this Register relating to receipt of articles should be made in red ink and all issues in black ink. Columns 4 to 24 are left blank to be filled in with names of articles received and issued.

FORM NO. 22

MALKHANA REGISTER

Serial No.	Name of estate	Particulars of property	Date of possession	Date of disposal	Remarks

FORM NO. 23
MALKHANA LABELS

Name of Estate_________________________-

Date of possession _______________________

Serial No. of ‘Malkhana Register)

FORM No. 24

FIDELITY BOND

(*See rule* 1 of Chapter 4-E, High Court Rules and Orders, Volume II)

Amount of guarantee Rs.____________________

Annual premium Rs.________________________

Know all men by these presents that ____________________ (hereinafter referred to as the 'said employed') and the___________________are held jointly and severally bound unto the Governor of the Punjab/Haryana, Chief Commissioner, Chandigarh, his successors in office and assigns (hereinafter called 'Government') in the sum of __________ rupees (hereinafter called the 'amount guaranteed') to be paid to the Government for which payment to be well and faithfully made the Official Receiver and the said Company for itself and its successors do hereby bind themselves firstly by these presents.

Signature of the Official Receiver.

Sealed with the seal of the said Company (or signed by an authorised agent).

Dated the _____________day of_____________________ in the year one thousand nine hundred and ________________.

Whereas the said Employed hath been appointed Official Receiver for the district of_______________and having been required to enter into a bond for the due and faithful discharge of his duties while he shall be employed in the said office, and also to find a surety who shall enter into a bond for the sum of ______________rupees the said Company at the request of the said Employed, hath agreed to become such surety for him, in respect of such due and faithful discharge of his duties while employed in the said office as aforesaid, or in any office attached or incident to the same (hereinafter described as the "said office") (and as well in respect of the present duties of his said office, as of any new or altered duties which may be imposed on or attached to the said office or the said Employed as such officer, by any law, Rule, Regulation, Practice or otherwise) for the period of twelve calendar months from the day of__________19 in consideration of the said Employed having paid to the said company the amount set out in figure at the head of these presents and there designated "Annual Premium", prior to the execution of the above written Bond and the said Company hath agreed to become such surety as aforesaid for the further period of twelve calendar months, and so on from year to year at the option of the said Company upon receiving from the said Employed the said annual premium, to be paid by him to the said Company on or before the__________day of___________ in each year prior to the determination of the present or the then current year, but the said Company is to be at liberty to determine its further liability at the end of the present or any current year, by giving notice in writing to the District Judge of ___________district for the time being as hereinafter mentioned, and if at any time notice in writing shall be given as hereinafter mentioned to the said Company at their office in____________that any loss or damage whatever has been occasioned by the acts or defaults of the said Employed in respect of his said employment, the liability of the said Company as to any future loss or damage shall then also cease as from the date of the service of such notice, and the year during which the said Company hath now agreed, or shall by acceptance of the said premium in future agree to become such surety, shall be called the year of Guarantee, and shall commence on the _________ day of__________in each year independently of the time when the said premium shall be paid and the liability of the said Company shall extend to all acts and defaults of the said Employed during that year, or until and end shall be put to further liability by such notice in writing declaring loss or damage as aforesaid.

Now the condition of the above written Bond or obligation is such that if the said Employed shall and do during the said period of twelve calendar months from the said________ day of __________19 and during such other period as the said Company shall become or continue to be such surety as aforesaid, by acceptance of the said renewal premium or until notice of some loss or damage shall be given, as hereinafter mentioned, from time to time and at all times during the continuance of his said office, well and sufficiently perform and execute all and singular the duties of his said office, or of or belonging to him as such officer, or belonging to or in any way imposed upon him by reason of his being such officer, and conduct himself with fidelity, integrity, and punctuality in and concerning the matters and things which shall be entrusted to him as such officer, or in respect of such duties as aforesaid and do and shall well and truly pay and apply all property including cash, coin, currency notes, stock notes, cheques, postal money orders, hundis, promissory notes, bills of exchange, securities, script, shares, bullion, jewellery precious stones, crops, cattle, documents, records, accounts vouchers books, papers and all other property whatsoever both movable and immovable as shall from time to time, come to his hands by virtue of such office or duties as aforesaid, or to the hands of his deputies, assistants, agents or other persons acting under his authority or on his behalf, or any of them respectively, and do and shall also well and truly pay all sums of money which he shall or may become liable to pay for any neglect or misbehaviour in his said office, or in respect of his said duties, and do and shall at all times, when duly required, produce and render true and correct accounts of the receipt, payment and application of all such property, as aforesaid, as shall so come to the hands of him, the said Employed, as aforesaid, or to the hands of his assistants or other persons acting under his authority or on his behalf, with proper and sufficient vouchers for the due application, thereof and shall not in any wise, take to his own use, misapply, lend or embezzle, make away with, neglect to account for, lose or hazard any property whatsoever, as aforesaid, or any part thereof, and do and shall at the expiration or other termination of his said office or duties deliver upto to the person duly authorised to receive the same, all books, papers, documents, and accounts relating to his said office or duties and do and shall pay and deliver to the person or persons duly authorised to receive the same, the balance (if any) of any such property, as aforesaid, remaining in the hands of and due from him the said Employed and shall not at any time quit or neglect the performance of his said duties or resign his said office without giving three months' notice in writing to the District Judge of ______________________________for the time being, or if, upon any ward in arbitration being given under the hand of the District Judge of__________ for the time being, certifying and declaring the amount of any loss or damage occasioned by the acts or defaults of the said Employed subsequent to the said _______day of_____19 in respect of such employment, the said employed, his heirs, executors or administrators or the said Company or their successors do and shall pay and make good to the Government the sum stated in such award as the amount of such loss or damage then the above written bond or obligation shall subject as hereinafter mentioned, be void, or else be and remain in full force and virtue;

Provided always that first, if any such award certifying and declaring the loss or damage shall be given as aforesaid ; or Secondly, if the said Employed shall omit to pay to the said Company on or before the________day of_________ in any year of guarantee the annual premium aforesaid and the said Company shall give notice in writing of such default to the District Judge aforesaid for the time being one calendar month prior to termination of the then current year of guarantee, unless the said Employed shall cause the said annual premium to be paid to the said Company before the expiration of the then current year of guarantee; Thirdly, if the said Company shall give notice in writing to the District Judge aforesaid for the time being the calendar month previous to the termination of any year of guarantee that they will not continue their suretyship beyond the then current year of guarantee; or Fourthly, if the said Company shall refuse to renew the said suretyship by declining to accept the said premium from the said Employed, and thereof shall give notice to the said District Judge aforesaid for the time being one calendar month previous to the termination of the then current year of guarantee then in the first case from and immediately after giving of such award and in the Second, Third and Fourth cases from and immediately after the expiration of the then current year of guarantee all further liability of the said Company as such surety as aforesaid shall cease, save and except as to the right of the Government to indemnify from loss or damage arising from all or any acts or defaults of the said

Employed previously committed in relating to such employment as aforesaid :

Provided always and it is hereby agreed and declared that this bond is entered into by the said Company on the condition that the capital, stock and fund for the time being of the said Company, other than the Life Assurance Funds, shall alone be liable to answer and make good all claims or demands, in respect of this bond, and that no Director or other Proprietor or Holder of shares of the said Company shall in any manner be personally liable or subject to any claims or demands by reason of such Bond beyond his or her particular share or shares of such capital, stock and funds :

Provided always and it is hereby agreed and declared that if any dispute arises between Government and either or both the other parties to this Bond as to his or their liability thereunder or as regards the meaning of operation of any part thereof or the rights, duties, or liabilities of any party for whether this Bond should be enforced, or, if enforced, as regards the rights and obligations of the parties as a result of such enforcement, then such difference or dispute shall be referred for arbitration to the District Judge for the time being at ___________his decision shall be final and binding and where the matter involves a claim for or the payment or recovery or deduction of money only the amount, if any, awarded in such arbitration shall be recoverable in respect of the matter so referred :

> "Provided always and it is hereby agreed and declared that while and so long as the above written Bond or obligation shall remain in force, on each occasion on which the accounts of the employed, as official Receiver, shall be audited by the appropriate Government Department, the said District Judge shall upon demand by the Company, furnish to the Company a copy of the note recorded at and containing the results of such audit, which copy shall be duly certified to be correct by an officer of the Court of the District Judge."

In witness whereof the said______________________ hath hereunto set his hand and seal and the_________________________ have hereunto caused their common Seal or the signature of their authorised agents to be affixed the day and year first above written.

Signed, Sealed and Delivered by the said ______________ in the presence of _________________.

(Witness).

(Signature of the Official Receiver).

Sealed with the common Seal of the said company.

________________ ________________ ________________	Director Manager	Signed by an authorised agent of the Company.

Accepted.

_____________ (Signature).
District Judge ____________ District
for and on behalf of the
Governor of Punjab/Haryana/
Chief Commissioner, U.T.,
Chandigarh.

No.

Entered.

Examiner.

Note. 1.—The Bond may be signed, instead of the Directors and Managers by any authorised agent of the Company (Vide resolution No. 8 Judges' Meeting, dated the 25th January, 1937).

Note 2.—The words 'sealed with the common seal of the said Company' and all references to the seal of the Company may be deleted and the words 'Branch Manager' substituted for the wards 'Director' and 'Manager' when the Bond is executed and signed by an agent of the Company who is authorised to sign and bind the Company.

FORM No. 25
(SECURITY BOND)

Whereas I, ______________________, son of________________ Caste _____________________ resident of _____________________ in the _____________district of the Punjab/Haryana/U.T., Chandigarh have been appointed to the office of the Official Receiver in the________________district of the Punjab/ Haryana/U.T., Chandigarh upon the condition inter alia that I do furnish proper security in the sum of Rs. 10,000 (Rupees ten thousand only) for the due and faithful discharge of my duties while employed in the said office or in any office attached or incident to the same (hereinafter described as the said office) and for the due accounting for all property by me at any time held or received by virtue of my said office.

Now, therefore, this security Bond witnesseth as follows, that is to say :—

Clause I.—In this Security Bond and for the purposes of each and all of the provisions thereof the expressions—

(a) "Government" means the Governor of the Punjab / Haryana / Chief Commissioner, Chandigarh, acting by and through the__________________

(b) "Official Receiver" means son of___________caste _____________resident of____________ , in the _____________district of the Punjab /Haryana/U.T., Chandigarh at present holding the office of Official Receiver in the_____________ district of the________________Punjab/Haryana / U.T., Chandigarh.

(c) "Property" includes cash, coin, currency notes, stock notes, cheques, postal money orders, hundies, promissory notes, bills of exchange Government and other securities, script, shares, bullion, jewellery, precious stones, crops, cattle, documents, records, accounts, vouchers, books, papers and all other property whatsoever both movable and immovable.

Clause II.—The Official Receiver is held and firmly bound to Government in the sum of Rs. 10,000 (Rupees ten thousand only) as security for the due and faithful discharge of the duties of his said office, that is, he shall from time to time and at all times during the continuance of his said office work and sufficiently perform and execute all and singular duties of his said office or of belonging to him as such officer or belonging to or in any way imposed upon him by reason of his being such officer and conduct himself with fidelity, integrity, and punctuality in and concerning the matters and things which shall be entrusted to him as such officer or in respect of such duties as aforesaid and do and shall well and truly pay and apply all property as shall from time to time come to his hands by virtue of such office or duties as aforesaid or to the hands of his deputies, assistants, agents or other persons acting under his authority or on his behalf or any of them respectively and do and shall also well and truely pay and apply all property whatsoever which he shall be or may become liable to pay or apply for any neglect or misbehaviour in his said office or in respect of his said duties and do and shall at all times when duly required produce and render true and correct accounts of the receipt, payment and application of all property whatsoever as shall so come to the hands of him the Official Receiver as aforesaid or to the hands of his assistants or other persons acting under his authority or on his behalf with proper and sufficient vouchers for the due application thereof and shall not in any wise take to his own use, lend or embezzle, make away with, neglect to account for, lose or hazard any such property as aforesaid or any part thereof and do and shall at the expiration or other termination of his said office or duties deliver up to the person duly authorised to receive the same all books, papers, documents and accounts relating to his said office or duties and do and shall pay and deliver to the person or persons duly authorised to receive the same the balance (if any) of the property as aforesaid remaining in the hands of and due from him the said Official Receiver.

Clause III.—The Official Receiver has deposited the sum of rupees ten thousand in cash and or has deposited Government Promissory notes of the face value of rupees ___________ in the said district as a security deposit for the due and faithful performance of his duties as Official Receiver and the due accounting by him of the property held by him as aforesaid.

Clause IV.—All interest which may from time to time accrue due and become payable upon the security deposit aforesaid shall be paid to the Official Receiver, but the principal amount of the security deposit shall continue to be held and retained by the Government subject to each and all of the terms and conditions of this security bond and until it shall be and become payable to the Official Receiver according to all or any of the provisions of the said Bond.

Clause V.—This Security Bond shall be deemed to be and be a Bond entered into under the orders of the Government for the performance of a public duty within the meaning of section 74 of the Indian Contract Act, 1872, and the whole sum secured shall be liable to be realised and forfeited to the Government in the event of any breach by the Official Receiver of all or any of the terms or conditions thereof.

Clause VI.—The Government or any officer having authority in this behalf under it shall, subject to the provisions of Clause VII and VIII hereinafter appearing hold and retain the security (deposit) so long as the following conditions obtain, this is to say : —

(a) The Official Receiver shall during his continuance in the office aforesaid faithfully, diligently and honestly discharge all and singular his duties as laid down in clause II hereof and shall not any time quit or neglect the performance of the said duties or resign his said office without giving _____ months' notice in writing to the District Judge for the time being of_________of his desire to resign the said office.

(b) The Official Receiver shall during the continuance or his said Office indemnify and save harmless the Government from and against all losses, costs, damages, and expenses which shall or may at any time or times hereafter be sustained by Government or any officer of Government from or through the neglect, failure, misconduct, disobedience, omission or insolvency of the said Official Receiver or any person serving under or employed by him or from or through the consuming wasting, embezzling, stealing, mis-spending, losing, misapplying or otherwise dishonestly or negligently or through oversight or violence making away or parting with any property or part or parts thereof by any person or persons whomsoever, while the Official Receiver shall continue to act in any such office.

Clause VII.—In the event of any breach of or default in all or any of the conditions hereinbefore in the preceding clause set forth and Provided the Government may take and forfeit to itself the whole amount of the security (deposit).

Provided that the Government, may, instead of taking and forfeiting to itself the whole amount of the security (deposit) retain only so much thereof as it may, in its absolute discretion deem adequate to compensate, reimburse or indemnify it in respect of loss or damage or inconvenience sustained by reason of the breach or default committed and may refund any balance to the Official Receiver but neither the Official Receiver nor his lawful heirs, representative or assigns shall have any right or claim to any such refund.

Clause VIII.—In the event of the Official Receiver quitting or being relieved of the office of Official ReceiVer or for any reason becoming incapable of further service in his said office or dying the security (deposit) shall if there shall have been no breach or default in all or any of the conditions hereinbefore in Clause VI hereof set forth and provided and if there shall be no claim or demand outstanding against the Official Receiver in favour of Government, be refunded and paid to the said Official Receiver or to his lawful heirs, legal representatives or assigns as the case may be.

Provided that the Government may, in its discretion retain the security (deposit) for a period not exceeding six months after the date on which the Official Receiver quits the service of the Government or becomes incapable of further service in the said office, or dies, for the purpose of ascertaining or satisfying itself that there has been no breach or default as aforesaid and that no claim or demand is so outstanding.

Clause IX.—The forfeiture or refund as the case may be, of the security (deposit) shall not, in any way affect, limit or extinguish any remedy or relief to which the Government may at any time be lawfully entitled against the said Official Receiver in respect of anything done or omitted to be done by him as Official Receiver, either before or after such forfeiture or refund and nothing in this security Bond contained shall be deemed to relieve the Official Receiver from any suit, prosecution or proceeding to which he may be liable under any law for the time being in force in respect of anything by him at any time done or omitted.

In Witness whereof the said Official Receiver has hereunto subscribe his name at________ on the________ day of ______________19 .

Name

Official Designation.

1.______________________

____

2.______________________

____

FORM No. 26

Whereas I,_____________son of___________ caste_________ , resident of_________________ in the______________, district of Punjab/Haryana/U.T., Chandigarh have been appointed to the office of the Official Receiver in the______________ district of the Puniab/Harvana/U.T., Chandigarh upon the condition inter alia that I do, furnish proper security in the sum of Rs. 10,000 (Rupees ten thousand only) for the due and faithful discharge of my duties while employed in the said office or in any office attached or incident to the same (hereinafter described as the said office) and for the due accounting for all property by me at any time held or received by virtue of my said office.

Now, therefore, this security bond witnesseth as follows, that is to say —

Clause I.—In this Security Bond and for the purposes of each and all of the provisions thereof the expression —

(a) "Government" means the Governors of the Punjab/Haryana/Chief Commissioner, Chandigarh acting by and through the District Judge ________________
(b) "Official Receiver" means___________son of caste___________resident of____________ in the _______________district of the Punjab/ Haryana/U.T., Chandigarh at present holding the office of Official Receiver in the____________ district of Punjab/Haryana/U.T., Chandigarh.
(c) "Property" includes cash, coin, currency notes, stock, notes, cheques, postal money-orders, hundies, promissory notes, bills of exchange, Government and other securities, scrip, shares, bullion, jewellery, precious stones, crops, cattle, documents, records, accounts, vouchers, books, papers and all other property whatsoever both moveable and immovable.
(d) "Security" means the sum of money by this Security Bond secured and assured to Government for the due and faithful discharge of his duties by the Official Receiver and for the due accounting for all property by him at any time held or received by virtue of his said office.

Clause II—The Official Receiver is held and firmly bound to Government in the sum of Rs 10,000 (Rupees ten thousand only) as security for the due and faithful diseharge of the duties of the said office, that is, the Official Receiver shall from time to time and at all times during the continuance of his said office work and sufficiently Perform and execute all and singular the duties of his said office or belonging to him as such officer or belonging to or in any way imposed upon him by reason of his being such officer and conduct himself with fidelity, integrity and punctuality in and concerning the matters and things which shall be entrusted to him as such officer or in respect of such duties as aforesaid and do and shall well and truly pay and apply all property as shall from time to time come to his hands by virtue of such office or duties as aforesaid or to the hands of his deputies, assistants, agents or other persons acting under his authority or on his behalf or any of them respectively and do and shall also well and truly pay and apply if property whatsoever which he shall hold or become liable to pay or apply for any neglect or misbehaviour in his said office or in respect of his said duties and do and shall at all times when duly required, produce and render true and correct accounts of receipt, payment and application of all property whatsoever as shall so come to the hands of him, the Official Receiver, as aforesaid, or to the hands of his assistants or other persons acting under his authority or on his behalf with proper and sufficient vouchers for the due application thereof and shall not in any wise take to his own use, lend or embezzle, make away with, neglect to account for, lose or hazard any such property as aforesaid, or any part thereof and do and shall at the expiration or other termination of his said office or duties deliver up to the person, duly authorised to receive the same, all books, papers, documents and accounts relating to his said office or duties and do and shall pay and deliver to the person or persons duly authorised to receive the same the balance (if any) of the property as aforesaid remaining in the hands of and due from him the said Official Receiver.

Clause III.—The Official Receiver has executed and registered a deed of mortgage dated the_______ day of 19 , of the property in the said deed of mortgage set forth and specified as security for the due and faithful performance of his duties as Official Receiver and the due accounting by him of the property held by him as aforesaid.

Clause IV.—This Security Bond shall be deemed to be and be a bond entered into wader the orders of the Government for the performance of a public duty within the meaning of section 74 of the Indian Contract Act, 1872, and the whole security shall be liable to be forfeited to the Government in the event of any breach by the Official Receiver of all or any of the terms or conditions thereof.

Clause V.—The Government or any officer having authority in this behalf under it shall, subject to the provisions of clauses VI and VII hereinafter appearing hold and retain the security so long as the following conditions obtain, that is to say :—

(a) The Official Receiver shall during his continuance in the office aforesaid faithfully, diligently and honestly discharge all and singular his duties as laid down in Clause II hereof and shall not at any time quit or neglect the performance of the said duties or resign his said office without giving ______ months, notice in writing to the District Judge for the time being of_________ of his desire to resign the said office.

(b) The Official Receiver shall during the continuance of his said office indemnify and save harmless the Government from and against all losses, costs, damages and expenses which shall or may at any time or times hereafter be sustaitned by Government or any officer of Government from or through the neglect, failure, misconduct, disobedience, omission or insolvency of the said Official Receiver or any person serving under or employed by him or from or through the consuming, wasting, embezzling, stealing, mis-spending, losing, misapplying or otherwise dishonestly or negligently or through oversight or violence making away or parting with any property or part or parts thereof by any person or persons whosoever while the Official Receiver shall continue _____________to act in any such office.

Clause VI.—In the event of any breach of or default in all or any of the conditions hereinbefore in the preceding clause set forth and provided the Government may realize, take and forfeit to itself the whole amount of the security.

Provided that the Government may, instead of taking and forfeiting to itself the whole amount of the security retain only so much thereof as it may in its absolute discretion, deem adequate to compensate, reimburse or idemnify it in respect of the loss or damage or inconvenience sustained by reason of the breach or default committed any may refund any balance to the Official Receiver; but neither the Official Receiver nor his lawful heirs, representatives or assigns shall have any right or claim to any such payment.

Clause VII.—In the event of the Official Receiver quitting or being relieved of the office of Official Receiver or for any reason becoming incapable of further service in his said office, or dying, the security shall, if there shall have been no breach or default in all or any of the conditions hereinbefore in Clause V hereof set forth and provided, and if there shall be no claim or demand outstanding against the Official Receiver in favour of Government, be reconveyed at his or their cost and expense to the said Official Receiver or to his lawful heirs, legal representatives or assigns as the case may be:

Provided that the Government may, in its discretion, retain the security for a period of not exceeding six months after the date on which the Official Receiver quits the service of the Government or becomes incapable of further service in the said office or dies, for the purpose of ascertaining or satisfying itself that there has been no breach or default as aforesaid and that no claim or demand is so outstanding.

Clause VIII.—The forfeiture or reconveyance as the case may be, of the security deposits shall not in any way affect, limit or extinguish any remedy or relief to which the Government may at any time be lawfully entitled against the said Official Receiver in respect of anything done or omitted to be done by him as Official Receiver, either before or after such forfeiture or reconveyance and nothing in this Security Bond contained, shall be deemed to relieve the Official Receiver from any suit, prosecution or proceeding to which he may be liable under any law for the time being in force in respect of anything by him at any time done or omitted.

In WITNESS WHEREOF the said Official Receiver has hereunto subscribed his name at ___________ on the__________ day of __________________ 19 .

Signed by :—

(Name)
Official Designation

1.______________
2.______________

FORM No. 27

THIS INDENTURE made this___________________ day of ____________19 . BETWEEN ________________son of ___________, caste____________, resident of_______________ (hereinafter called the mortgagor) of the one part and the Governor of the Punjab/Haryana/Chief Commissioner, Chandigarh, (hereinafter called the mortgagee) of the other part.

WHEREAS____________, son of_______________, caste __________, resident of_____________ (hereinafter called the Official Receiver) on the_________ day of __________ 19 , appointed to and now holds and exercises the office of Official Receiver of the ___________district.

AND WHEREAS in consideration of the said appointment and for the purpose of in part securing and idemnifying the mortgagee, his successors and assign against all loss or damage that the mortgagee may, in any way, suffer by reason of the neglect of duty waste or embezz1ement or otherwise of any property or parts thereof in charge of or in the case and custody of the sail Official Receiver or his subordinates or agents and of giving effect to the Bond of even date by the mortgagor, he, the mortgagor, has agreed to convey by way of mortgage the hereditaments and premises described in the schedule hereunto annexed to the mortgagee.

Now this indenture witnesseth that in pursuance of the said agreement and in consideration of the said appointment of the Official Receiver the mortgagor doth hereby grant, convey and assign unto the mortgagee his successors and assigns all those hereditaments and premises situate in___________ more particularly described and mentioned in the schedule and delineated in the map or plan hereunto annexed respectively togetherwith all easements, rights and things appurtenant or reputed appurtenant thereto and all deeds, puttas and instruments of title relating thereto and the estate, right, title, interest, claim and demand whatsoever of him the mortgagor into and upon the said hereditaments and premises and every part thereof. To have and to hold the same unto and to the use of the mortgagee, his successors and assigns for every subject to the proviso for redemption hereinafter contained provided always and it is hereby declared and it is the true intent and meaning of these presents and of the said parties hereto that if the said Official Receiver shall always duly perform and fulfil all the duties and obligations of his said office while he shall hold or exercise the same as set forth in the Bond of even date hereinbefore specified and also if the mortgagor, his heirs and legal representatives will pay and make good to the mortgagee, his successors and assigns and to the superior officers or the said Official Receiver all losses and damages which he or they may have sustained or incurred in consequence of the failure of the said Official Receiver to perform and fulfil all the duties and obligations as set forth in the said Bond of even date (but subject always to the proviso hereinafter contained) the mortgagee shall and will at the request and cost of the mortgagor, his heirs or legal representatives reconvey and re-assign the said hereditaments and premises hereby granted unto the mortgagor, his heirs or representatives as he or they shall direct. AND in the meantime and until default shall be made by the said Official Receiver due performance of his duties as aforesaid the mortgagor, his heirs and legal representatives shall continue in possession and it receipt of the rents and profits of the said hereditaments and premises and the mortgagor doth hereby for himself, his heirs, legal representatives and assigns convenant with the mortgagee, his successors and assigns that he the mortgagor now hath good right to grant the hereditaments and premises hereby granted or expressed so to be unto and to the use of the mortgagee his successors and assigns in manner aforesaid and that free from incumbrances and the mortgagor doth hereby for himself, his heir, legal representatives and assigns covenant with the mortgagee, his successors and assigns that whenever in exercise of the power hereinafter reserved to the mortgagee, his successors and assigns sale shall be made of the said hereditaments and premises hereby granted or expressed so to be or any part thereof the mortgagee, his successors, assigns or any other person or persons who may purchase the same their heirs, legal representatives and assigns shall and may at all times thenceforth quietly possess and enjoy the same and receive the rents and profits thereof without any lawful eviction, interruption claim or demand whatsoever from or by the mortgagor or any person rightfully claiming from, under or in trust for him and that free from incumbrances. And further he the mortgagor and all other persons having or lawfully or equitable claiming any estate or interest in the said hereditaments and premises or any part thereof shall and will from time to time and all times thereafter at his or their own cost during the continuance of this security and afterwards at the cost of the person or persons requiriing the same to do and execute or cause to be done and executed all such acts, deeds and things for further and more perfectly assuring the said hereditaments and premises unto and to the use of the mortgagee, his successors and assigns and other persons aforesaid in manner aforesaid as shall or may reasonably be required.

And it is hereby agreed and declared and the true intent and meaning of the parties hereto is that if default shall be made by the said Official Receiver in the due performance of his duties in such office or employment as aforesaid or in making good the damages losses, costs, charges and expenses hereinbefore mentioned and contained or any part thereof respectively them and in such case and immediately thereupon or at any time thereafter or from time to time as occasion shall require it shall be lawful for the mortgagee, his successors and assigns or his or their officers and servants duly authorised in that behalf and notwithstanding the dissent or opposition of the mortgagor, his heirs, or legal representatives to enter into and upon and (whether in or out of possession) to make sale and absolutely dispose of the said hereditaments and premises hereby granted or expressed so to be or any part thereof by public auction or private contract and for such price or prices as to the mortgagee, his successors or assigns shall appear reasonable with liberty to buy in the same or any part thereof and for effectuating any such sale it shall be lawful for the mortgagee, his successors or assigns to do, make and enter into all necessary acts, deeds, conveyances and assurances whatsoever, And it is hereby further declared by and between the parties to these presents that such deeds, acts and conveyances and assurances done, made or executed under or by virtue of these presents shall be good, valid and effectual whether the mortgagor, his heirs or legal representatives shall or shall not join therein or assent thereto and shall bind the mortgagor, his heirs or legal representatives and all other persons claiming under him or them.

And it is hereby further declared that the power of sale hereinbefore contained shall and may be exercised and that all things to be done in pursuance thereof shall be good, valid and binding notwithstanding that no decree of any Court of law or equity for barring or closing the equity of redemption shall have been previously obtained but this power of sale is given in addition to the ordinary remedies of foreclosure. And that the receipt in writing of the District Judge of__________for the time being for all moneys to arise from any such sale or sales shall be good and sufficient discharge to the persons paying the same and shall exonerate such persons from all responsibility in respect of the application or non-application of the same nor shall he or they be bound to enquire whether the sale was regular or authorised under these presents. Provided always and it is hereby agreed and declared by and between the mortgagor and the mortgagee that on the vacation by the said official Receiver of his said office of official Receiver as aforesaid the above-mentioned hereditaments and premises shall not be at once reconveyed to the mortgagor, his heirs or legal representatives but shall be and remain mortgaged with the mortgagee for the term of six months as security against any loss that may have been incurred by the mortgagee owing to the neglect or default of the said Official Receiver and which may not have been discovered until after the vacation of his appointment by the said Official Receiver provided always that the reconveyance at any time of the hereditaments and premises shall not be deemed to affect the right of the mortgagee to take proceedings against the mortgagor or the Official Receiver, aforesaid, in case any breach of the conditions set forth in this deed of the said Bond of even date shall be discovered after the reconveyance of the said hereditaments and premises.

In witness whereof the parties to these presents have hereunto set and subscribed their hands and seals of the dates hereinafter mentioned, respectively.

Signed, sealed and delivered by the said______on the_________day of__________

19 ,___________ in the presence of______________, witness ________________witness____________.

Signed, sealed and delivered by ____________ for and on behalf of the Government on the _____________day of __________ 19 .

FORM No. 28

Whereas______________ son of __________caste __________ resident of_______________in the______________district in the Punjab/Haryana/U.T. Chandigarh has been appointed to the office of Official Receiver in the____________district in the Punjab/Haryana/U.T. Chandigarh upon conditions inter alia that he do furnish proper security in the sum of Rs. 10,000 (Rupees ten thousand only) for the due and faithful discharge of his duties while employed in the said office or in any office attached or incident to the same (hereinafter described as the said office) and for the due accounting for all property by him at any time held or received by virtue of the said office.

And Whereas ____________, son of____________ caste___________, resident of_______________ in the____________ district in the Punjab/Haryana/U.T. Chandigarh (hereinafter on his own behalf and on behalf also of his heirs, legal representatives, administrators, executors and assigns called the surety) has agreed to stand surety for the due performance as aforesaid of the duties of Official Receiver by the____________ aforesaid.

NOW THEREFORE, THIS SECURITY BOND WITNESSTH as follows, that is to say :—

CLAUSE I.—In this Security Bond and for the purposes of each and all of the provisions thereof the expression—

(a)"Government" means the Governor of the Punjab/Haryana/Chief Commissioner, Chandigarh acting by and through the District Judge of ____________.

(b) "Official Receiver" means ___________son of __________ caste ____________resident of____________in the ____________district of the Punjab/Haryana/U.T. Chandigarh.

(c) "Property" includes cash, coin, currency notes, stock notes, cheques, postal money orders, hundis, promissory notes, bills of exchange, Government and other Securities scrip, Shares, bullion, jewellery, previous stones, crops, cattle documents, records, accounts, vouchers, books, papers and all other property whatsoever both movable and immovable.

(d) Security means the sum of money by this Security Bond secured and assured to Government for the due and faithful discharge of his duties by the Official Receiver and for the due accounting for all property by him at any time held or received by virtue of his said office.

CLAUSE II.—The Official Receiver and the Surety are held firmly bound to Government in the sum of Rs. 10,000 (Rupees ten thousand only) as security for the due and faithful discharge of the duties of the said office that is, he the Official Receiver, shall from time to time and at all times during the continuance of his said office work and sufficiently perform and execute all and singular the duties of his said office or belonging to him as such officer or belonging to or in any way imposed upon him by reason of his being such officer and conduct himself with fidelity, integrity and punctuality in and concerning the matters and things which shall be entrusted to him as such officer or in respect of such duties as aforesaid and do and shall well and truly pay and apply all property as shall from time to time come to his hands by virtue of such office or duties as aforesaid or to the hands of his deputies, assistants, agents, or other persons acting under his authority or on his behalf or any of them respectively and do and shall also well and truly pay and apply all property whatsoever which he shall hold or become liable to pay or apply for any neglect or misbehaviour in his said office or in respect of his said duties and do and shall at times then duly required produce and render true and correct accounts of the receipt, payment and application of all property whatsoever as shall so come to the hands of him, the Official Receiver as aforesaid, or to the hands of his assistants or other persons acting under his authority or on his behalf with proper and sufficient vouchers for the due application thereof and shall not in any wise take to his own use, lend or embezzle, make away with, neglect to account for, lose or hazard and such property, as aforesaid or any part thereof and do and shall at the expiration or other termination of his said office or duties deliver up to the person duly authorised to receive the same all books papers, documents and accounts relating to his said office or duties and do and shall pay and deliver to the person or persons duly authorised, to receive the same the balance (if any) of the property as aforesaid remaining in the hands of and due from him, the said Official Receiver.

CLAUSE III.—The Surety has executed registered a deed of mortgage, dated_________day of _________19 , of the property in the said deed of mortgage setforth and specified as security for the due and faithful performance of his duties by the official Receiver and of the due accounting by him of the property held by him as aforesaid.

CLAUSE IV.—This Security Bond shall be deemed to be and be a Bond entered into under the order of the Government for the performance of a public duty within the meaning of section 74 of the Indian Contract Act, 1872, and the whole security shall be liable to be forfeited to the Government in the event of any breach by the Official Receiver of all or any of the terms or conditions thereof.

CLAUSE V.—The Government or any officer having authority in this behalf under it shall, subject to the provisions of clauses VI and VII hereinafter appearing hold and retain the security so long as the following conditions obtain that is to say—

(a) The Official Receiver shall, during his continuance in the office aforesaid faithfully, diligently and honestly discharge all and singular his duties, as laid down in clause II hereof and shall not at any time quit or neglect the performance of the said duties or resign his said office without giving__________month's notice in writing to the District Judge for the time being of___________of his desire to resign the said office.

(d) The Official Receiver shall during the continuance of his said office indemnify and save harmless the government from and against all losses, costs, damages and expenses which shall or may at any time or times hereafter be sustained by Government or any officer of Government from or through the neglect, failure, misconduct, disobedience, omission or insolvency of the said Official Receiver or any person serving under or employed by him or from or through the consuming, wasting, embezzling, stealing, misspending, losing misapplying or otherwise dishonestly or negligently or through oversight or violence making away or parting with any property or part or parts thereof by any person or persons whomsoever while the Official Receiver shall continue to act in any such office.

CLAUSE VI.—In the event of any breach of or default in all or any of the conditions hereinbefore in the preceding clause set forth and provided the Government may realise, take and forfeit to itself the whole amount of the Security:

Provided that the Government may, instead of taking and forfeiting to itself the whole amount of the Security realise and retain only so much thereof as it may, in its absolute discretion, deem adequate to compensate, reimburse or indemnify it in respect of the loss or damage or inconvenience sustained by reason of the breach or default committed, pay and balance thereof to the Surety; but neither the Official Receiver nor his or their lawful heirs, representatives or assigns shall have any right or claim to any such payment.

CLAUSE VII.—In the event of the Official Receiver quitting or being relieved of the office of Official Receiver or for any reasons becoming incapable or further service in his said office or dying, the property secured, shall, if there shall have been no breach or default in all or any of the conditions hereinbefore in clause V hereof set forth and provided, and if there shall be no claim or demand outstanding against the Official Receiver in favour of Government, be reconveyed at his or their cost and expense of the said Surety or to his lawful heirs, legal representatives or assigns as the case may be :

Provided that the Government may, in its discretion retain the Security for a period not exceeding six months after the date on which the Official Receiver quits the service of the Government or becomes incapable of further service in the said office or dies, for the purpose of ascertaining or satisfying itself that there has been no breach or default as aforesaid and that no claim or demand is so outstanding.

CLAUSE VIII.—The forfeiture or reconveyance as the case may be, of the property secured, shall not in any way affect, limit or extinguish any other remedy or relief to which the Government may, at any time, be lawfully entitled against the said Official Receiver in respect of anything done or omitted to be done by him as Official Receiver, either before or after such forfeiture or refund and nothing in this Security Bond contained, shall be deemed to relieve the Official Receiver from any suit, prosecution or proceeding to which he may be liable under any law for time being in force in respect of anything by him at any time done or omitted.

IN WITNESS WHEREOF the said Official Receiver and the Surety have hereunto subscribed their names at__________on the____________day of__________19 .

____

OFFICIAL RECEIVER.

____

____

Surety

Witnesses-

1.____________________

2.____________________

CHAPTER 5

ADMINISTRATIVE INSTRUCTIONS IN INSOLVENCY CASES

Insolvency case should be treated as pending till complete winding up of the debtor's estate.

1. Insolvency cases should not be treated as disposed Insolvency of when an order of adjudication has been passed, but should be treated as pending till all the realizable assets have been collected and the proceeds divided among creditors. It is important to note that an order of discharge does not necessarily terminate the proceedings in insolvency and the file of each case must be kept pending even after discharge if the actual winding up of the estate is still incomplete.

The Court should fix dates at suitable intervals for the Receiver to report the progress in the realization of the insolvent's assets and produce his accounts. On the dates so fixed, the Receiver's report and the accounts should be seen and the objections of the parties concerned (if any) should be heard and proper orders passed thereon. No insolvency cases should be adjourned *sine die.*

Period for application for discharge should not ordinarily exceed one year.

2. (i) When an application for discharge is made, the Court should fix a date for hearing it and issue notices (ordinarily by Registered post) to the creditors at the addresses furnished by them.

(ii) The period fixed for an application for discharge should not ordinarily be more than one year in the first instance.

(iii) This period should not be extended without sufficient grounds. The following remarks in the Report of the Civil Justice Committee appointed in 1924-25 deserve the attention of Courts :

> "We incline to think that the time within which application for discharge should be made is either being extended with undue frequency or that this matter is being ignored by Receivers and by Courts. Possibly too, there is some mis-understanding, by reason of which creditors, who have compromised with the insolvent, are

being allowed some say in the matter. It cannot be too strongly emphasised that unless an insolvency is in due form annulled, the insolvent should in every case be proceeded against unless he applies for his discharge within the time limited. It may be that Receivers postpone or agree to postponement of the date for application for discharge, because the discharge, when granted, terminates the time during which any property accruing to the insolvent ensure for the benefit of his creditors. In such case, however, the proper course, as a rule, is not to postpone the application for discharge but to make the application; the Court being able to suspend the discharge for such period as is proper." (Vide pages 234-35 of the Report).

Separate file to be kept for all High Court letters and instructions about insolvency.

3. The Insolvency Courts should maintain a separate file for the letters and instructions issued by the High Court about insolvency work and Official Receivers.

Register No. 15 of adjudicated insolvents should be properly maintained.

4. The attention of Courts is drawn in particular to the necessity for the proper and regular maintenance of a register in form No. 15 (Register of persons adjudicated insolvents) given at the end of Chapter 4-C. This Register, if maintained properly, can give a very useful picture of the proceedings taken in each case for the administration of the Estate. It has been noted that the second part of the Register (which is to contain an abstract of the Receiver's Reports) is either not maintained properly or omitted altogether. The Courts should see that this Register is maintained properly.

Causes of delay in disposal of Insolvency cases.

5. It has been found as a result of inspections that disposal of insolvency cases is due chiefly to one or more of the following causes : —

(i) Failure on the part of the Court to scrutinize the petitions carefully at the time of their institution to see if the provisions of section 13 of the Provincial Insolvency Act as to the contents of the petition have been complied with or not.

(ii) Failure of the petitioner to put in the initial deposit within the time specified by the Court and repeated adjournments granted for the purpose. The Courts in case of default should decline to entertain the petition and return it with this objection.

(iii) Failure of the debtor to furnish security in time as ordered by the Court.

(iv) Failure of the Court generally to fix any period within which the requisite process-fees should be put in *(vide* paragraph 2, Chapter 1-K, Rules and Orders, Volume I).

(v) Delay on the part of the Court establishment in issuing notices promptly.

(vi) Delay in service of notices on creditors.

(vii) Failure to name in the first instance all the persons capable of acting as guardians *ad !item* for the minor respondents *(See* Order 32 rules 3 and 4 as amended by the Punjab High Court).

(viii) Frequent and unnecessary adjournments for compromise which never materialize.

(ix) Failure to continue the recording of evidence from day to day.

(x) The hearing of Insolvency petitions is some times adjourned repeatedly and quite unnecessarily in order to give time to the creditor's witnesses who naturally exaggerate the value of the debtor's property to buy up the Property at their own valuation. They never, of course, do buy the property usually, and the only result generally is the prolongation of the proceedings.

(xi) The cases are frequently adjourned for arguments only which should be really unnecessary except in case of unusual difficulty.

(xii) *Ex-parte* proceedings are taken without a careful examination of the process-server's report and when taken are set aside too readily on payment of costs without any other reason being sought or assigned.

(xiii) Adjournments are granted unnecessarily for the putting in of written replies to miscellaneous applications of a petty nature.

(xiv) Adjournments are granted too frequently by some courts at the request of unready counsel who do not come prepared with their cases. These and other fruitful causes of delay in the disposal of ifrisolvency work should be checked assiduously.

SUPERVISION AND CONTROL

Annual inspection.

6. Insolvency Judges and District Judges should inspect the Official Receiver's work once a year.

Annual remarks.

7. Annual remarks should be recorded on the work and character of Official Receiver by Insolvency Judges and District Judges.

Cash book should be put up daily before the Judge.

8. The cash book (form 15) should be put up before the Insolvency Judge at the beginning of each day with the counterfoils of all receipts issued during the previous day, except when the Official Receiver is away from headquarters, in which case he should put up the Cash Book on the day following that of his return to the headquarters.

Cash book receipt side should be checked by the Judge.

9. The Insolvency Judge should check each entry on the receipt side with the corresponding counterfoil in the Receipt Book or the relevant entry in the Sale List (No. 8) and append his signatures at the end of the day's entries in the Cash Book as token of his having carried out the check.

Cash book Expenditure side should be checked by the Judge.

10. The Insolvency Judge should similarly check the entries on the expenditure side of the Cash Book with the the payment vouchers and counterfoils of cheques and sign at the end of the day's entries on this side of the book also as a token of his check.

11. The Demand and Collection Register (Form No. 7) should be inspected by the Insolvency Judge on first working day of each month and it should then be signed and dated by him.

Monthly inspection of Demand and Collection Register.

12. The Dividend Register No. 19, shall be put up before the Insolvency Judge when each dividend is declared and the entries shall then be examined, signed and dated by him at the end.

Dividend register should be checked by the Judge whenever dividend is declared..

13. The Insolvency Judge should also compare the Pass-Book entries with the Cash-book at the beginning of each month and note the fact of his having done so in the Cash-book.

Monthly comparison of Pass-book with cash-book by the Judge.

14. The practice by which all Records are allowed to remain in the hands of the Official Receiver himself and to be treated more or less like personal property should be given up. These records relate to proceedings of a public nature and must be treated as public documents.

Records are public records and should not be left with the receiver when no longer required.

15. The practice by which the Insolvency Courts in some Districts hand over their record to the Official Receiver and allow him to record his proceedings also in it is very objectionable as the Court cannot keep in close with the progress of administration when it makes over whole of its own record to the Official Receiver and nothing itself.

Cout not to make over its own record to Receiver.

16. The Official Receiver should not send for the records of decided cases from the Record Room freely or frequently as they are liable to damage in transit and use. The object in most cases should be served by calling upon the parties concerned to produce certified copies of the relevant documents and the tendency to send for the whole record should be discouraged in all cases except when it is essential to prove any documents in original.

The production of records of decided cases from the Records Room should not ordinarily be allowed.

LEASE

17. The practice of giving out leases orally is objectionable. It is imperative that Official Receiver should in all cases obtain a regular lease-deed from the lessee concerned.

Oral leases not allowed.

Lease in favour of insolvent not approved.

18. The practice of leasing out the land to the insolvent himself for a cash consideration to be paid by him is not approved. It is seldom that the insolvent can pay the lease money in such cases. The result is that the insolvent, it is effect left entirely undisturbed in the enjoyment of his property without paying anything to the creditors.

SALES

Court officials not to bid at sales held by Receiver.

19. The Officials of Insolvency Courts are strictly prohibited from bidding for or purchasing anything at sales held by Official Receivers.

Sales by Receiver require no confirmation by court. Sales to be conducted personally by Receiver except as provided.

20. Official Receivers have full powers to sell all or part of insolvents property without confirmation by the Court. Any person aggrieved by the Official Receiver's action may appeal to the District Judge as prescribed by law. Such sales should be conducted by Official Receivers personally. On no account should such sales be carried out by Official Receiver's clerks except in cases where the property to be sold is situated at a place difficult of access then it may be sold by the Official Receiver's clerks, provided that :—

(a) the estimated value of the property does not exceed Rs. 250; or

(b) the Judge of the Insolvency Court certifies that for the Official Receiver to conduct the sale in person would involve an expenditure of time and money incommensurate with the importance of the sale.

(c) the Official Receiver himself remains responsible for the proper carrying out of the proceedings.

On sale Receiver should execute a deed of sale and not issue a sale certificate.

21. When a sale has been held the correct procedure is not for the Official Receiver to issue a certificate (as in the case of a Court sale) but to execute a proper deed of conveyance conforming with the requirements of the law regarding stamp duty and registration.

22. The Official Receivers should submit to the Statement of Court a statement of sales conducted by them on the first working day of each month for the sales conducted during Court the previous month. It shall be the duty of the Court to check this statement with the entries in the Cash Book and the Demand and Collection Register in order to satisfy itself that the amounts realized have been brought to account and that the balances are being watched through the Demand and Collection Register. The statement of sales shall be submitted in Form No. 1 given at the end of this Chapter.

Statement of sales to be submitted to Court every month.

PROGRESS REPORTS

23. Each Official Receiver must, after six months from the date of which an order of adjudication is made, submit to the Court a report in Form No. 2 showing what progress has been made by him to realize and distribute the assets of the insolvent estates entrusted to him.

Receiver to submit to court after six months progress report of the administration of estate.

24. All estates should ordinarily be wound within one year from the date of the order of adjudication. After a year the case must be reported to the District Judge with a special note to explain why the case could not be finished within the period mentioned above.

An estate should be wound up within a year.

HISTORY SHEETS

25. The Official Receivers shall in addition to the progress reports mentioned above submit to the District of old cases. Judge, each month through the Insolvency Judge, a detailed history sheet in Form No. 3 given at the end of this Chapter for the six oldest cases under administration.

History sheet of old cases.

ENGAGEMENT OF LAWYERS

26. The sanction of the Insolvency Judge to the appointment of Pleader and his remuneration shall be obtained under section 59 of the Provincial Insolvency Act before any counsel is engaged by an Official Receiver.

Engagement of a counsel by a Receiver subject to previous sanction of Court.

27. The Official Receivers cannot charge any fees themselves whenever they appear in Court cases entrusted to them as Official Receivers.

Official Receivers not allowed any fees for cases conducted to them.

MISCELLANEOUS INSTRUCTIONS

Pay of insolvent Government Servant should be attached through the Head of Department.

28. The pay of a Government servant who has been adjudged an insolvent must be attached through his Head of Department so that his superior officers may not be kept in ignorance of his insolvency.

Receiver to guard against entry of bogus creditors in the Schedule.

29. It has come to notipe that a common trick resorted to by some insolvents is to include the names of several near relatives in the schedule as creditors so as to reduce the amount available for the genuine creditors. The Official Receivers should remain on guard against this practice.

Balance of one estate not to be used for administration of an other estate.

30. The practice of spending money out of the general balance of other estates in hand for the administration of any estate which has no balance of its own, is objectionable and should not be resorted to.

Receiver cannot use the service of process- server.

31. The Official Receivers are not entitled to use the service of the process serving establishment.

Channel for correspondence.

32. The Official and Special Receiver shall correspond in matters relating to his duties and office with the higher authorities only through the Insolvency Judge.

GENERAL IRREGULARITIES

List of common irregularities noticed in the work of Receivers.

33. The attention of all Official Receivers is drawn to the following defects which are generally observed in their accounts and procedure :—

(a) The sale price of property sold is not always realized promptly and in some cases no part of the price is received at all on the date of sale, with the result that purchasers frequently go back on their bids and fresh sales have to be held.

(b) The Administration of the Estates is kept pending even when the amount in hand is not sufficient to declare any practical dividend. Steps should be taken to have the amounts lapsed to Government in such cases and the estate wound up.

(c) The documents produced in proof of debts are not marked or exhibited with the result that sometimes the same document is used by the creditor to prove the same debt more than once.

(d) Official Receivers retain undelivered cheques in their hands for long periods. All such cheques should be cancelled if the creditors concerned do not turn up within the normal period of three months during which a cheque remains current.

(e) The permanent advance is not recouped regularly at the end of each month.

(f) Applications for the sanction of the High Court of the entertainment of the Official Receiver's Establishment are not submitted in time.

FORM No. 1

STATEMENT OF SALES

Serial No.	Name of estate	Description of property	Amount realised	Reference to page of Cash Book	Balance due	Reference to page of Demand and Collection Register
			Rs.		Rs.	

FORM No. 2

(PROGRESS REPORT OF INSOLVENTS' ESTATES)

District______________________________

Period of report ______________________________

Serial No.______________________________

Name of Insolvent______________________________

Date of Adjudication______________________________

Assets

1. Total estimated value of assets

2. Assets realized hitherto.

3. Assets realized during period of report.

4. Estimated value of assets yet unrealized Proof of debts

1. Amount of debts in petition.

2. Debts proved hitherto.

3. Debts proved during period of report. Distribution

1. Total liabilities.

2. Amount distributed as divided hitherto.

3. Amount distributed during period of report.

4. Balance in hand.

Remarks

1. Official Receivers explanation as to delay, etc.,

2. Remarks of Insolvency Judge.

FORM No. 3

HISTORY SHEET

Name of Estate ______________________

Date of adjudication ____________________

Date	Abstract of Proceedings

Signature of the Official Receiver.

(Inserted *vide* Notification dated 8-12-77 of High Court)

CHAPTER 6

PROBATE, ADMINISTRATION AND SUCCESSION CERTIFICATES.

PART A.—PROBATE AND ADMINISTRATION.

Reference to Indian Succession Act, 1925.

1. The present law of Probate, Administration and Succession Certificates is contained in Indian Succession Act of 1925, as amended. The references below are to the Act of 1925.

Inventory of property and assets and debts and accounts to be put in.

2. A person to whom a grant of Probate or Letters of Administration is made is required to file a full and true inventory of the property and credits of the estate and of all the debts owing by any person in Court within six months, or such further time as the Court may allow from the date of the grant and to render accounts within one year, or such further time as the Court may allow (section 317).

Form for grant of Probate and Letters of Administration..

3. The form in which the grant of Probate is to be made will be found in Schedule VI to the Act and that for the grant of Letters of Administration in Schedule VII.

Copy of Section 317 prescribing Penality for not filing inventory and accounts to be given.

4. The duty of an Executor or Administrator in regard to the exhibiting of an inventory and account and the penalty to which such Executor or Administrator becomes liable for omission to comply with the requisition is detailed in section 317 of the Act, and this section is printed in small type at the foot of the form of grant prescribed by the High Court. (Form No. 176 in Part A-II of Volume VI, High Court Rules and Orders). If for any reason the printed form is not used a copy of section 317 should be delivered to the person receiving the grant so that there may be no excuse for failure to comply with the requirements of the law.

Probate or Letters should be surrendered on revocation of grant.

5. Section 296 provides that when a grant is revoked or annulled under section 263 the Probate or Letters of Administration must be surrendered to the Court by the person to whom they were granted and a penalty is prescribed for failure to comply with this requisition.

Case in which probate or Letters are con clusive in another State.

6. In respect of estates in which the value of the property affected beyond the limits of the State does not exceed Rs. 10,000 and the deceased at the time of his death had his fixed place of abode within the jurisdiction of a

District Judge the grant of Probate or Letters of Administration by the District Judge has effect, unless otherwise directed by the grant, throughout the other State. (Section 273).

Procedure where Probate or Letters have to take effect in other State(s).

7. Section 274 of the Act prescribes the transmission to the High Courts and District Judges of certificates of grants having effect in other State(s).

Amount and locality of assets beyond the State to be stated.

8. Sections 276 and 278 of the Act require applicants to state the amount and locality of assets situated outside the State.

Applicants to State in some cases whether Probate or Letters have been applied for elsewhere.

9. Section 279 requires applicants, in certain cases, to state whether or not application for Probate or Letters of Administration has been made to any other Court.

Case where copy of citation to be issued outside State.

10. Section 283 directs the issue of a copy of the citation outside the State to the District Judge in whose jurisdiction the property is situated.

Inventory to include property in any part of India in certain cases.

11. Section 318 directs that in cases of the nature described in that section, the executor or administrator shall include in the inventory of the effects of the deceased all his movable and immovable property situated in India.

Certificate where Probate or Letters are effective throughout India.

12. When a grant of Probate or Letters of Administration is made, and it is intended that the grant is to have effect throughout India, a certificate in the following terms should be endorsed at the foot of such grant, viz.,:—

"Certified that the value of the property affected beyond the limits of the Punjab by the foregoing grant does not exceed ten thousand rupees.

(Sd.) ——————,

District Judge.

Rules framed under sections 223 and 226 of the Act.

13. In exercise of the powers conferred by sections 223 and 236 of the Indian Succession Act, 1925 (XXXIX of

1925) the Central Government is pleased to make the following rules:-

1. In these rules—
   (a) "Share capital" includes stock; and
   (b) "Trust business" means the business of acting as trustee under wills and settlements and as executor and administrator.

2. The conditions to be satisfied by a company in order to render it eligible for the grant of probate or letters of administration under the Indian Succession Act, 1925, shall be the following, namely:—

(1) The Company shall be either—

(a) a company formed and registered under the Indian Companies Act, 1913, or under the Indian Companies Act, 1866, or under any Act or Acts repealed thereby, or under the Indian Companies Act, 1882, or a company formed under any other Act of the Governor-General in Council or of the Indian Legislature, or

(b) a company constituted under the law of the United Kingdom of Great Britain and Northern Ireland or any part thereof, and having a place of business in British India, or

(c) a company established by Royal Charter and having a place of business in British India.*

(2) The company shall be a company empowered by its constitution to undertake trust business.

(3) The company shall have a share capital for the time being subscribed of not less than—

(a) Rs. 10 lakhs in the case of a company of the description specified in sub-clause (a) of clause (1) and

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*Note.—These powers have now been transferred to the State Government,- vide the Government of India (Adaptation of Indian Laws) Order, 1937.

(b) £ 100,000 in the case of a company of the description specified in sub-clause (b) of clause (1) of which at least one-half shall have been paid up in cash:

Provided that the Central Government may exempt any company from the operation of this clause.

(Government of India Notification No. F. 349/32-Judl., dated the 17th January, 1933 as modified by Government of India Notification No. F. 242/35, dated the 27th March, 1935).

PART B-SUCCESSION CERTIFICATES.

Introductory.

1. The following instructions are issued regarding the grant of certificates for the collection of debts on succession which previously were dealt with under the Succession Certificate Act, 1889. The provisions of that Act are now incorporated in the Indian Succession Act, 1925.

Sub-Judges empowered to grant certificate.

2. All Subordinate Judges of the first and second class have been invested with the functions of a District Court for the purposes of granting succession certificates by Punjab Government Notification No. 781, dated 15th July 1914, which continues to be in force—(vide General Clauses Act, 1897, section 24).

Form of appeal.

Application under Part X of the Indian Succession Act, 1925, will usually by dealt with by Subordinate Judges and appeals from their orders granting, refusing or revoking certificates will lie to the District Judge. When a District Judge finds it necessary to deal with any application under the Act as an original Court the appeal will lie to the High Court under section 384, sub-section (1) of the Act.

Succession Certificate, etc. should be obtained by the heir for recovery of debts due to a deceased person.

3. Turning to the procedure prescribed by the Act the following points should be borne in mind—

(a) A Civil Court is prohibited in all cases from passing or executing a decree in a suit by or upon the application of a person claiming to be entitled to recover a debt or decree in favour of any person deceased, without the production of a probate or letters of administration, or a succession certificate granted under the Succession Certificate Act of 1889, or the Indian Succession Act of 1925, or a certificate granted under the Administrator-General, Act, III of 1913. In this connection attention is also drawn to the provisions of Order VII, Rule 4, of the Code of Civil Procedure, as to plaintiff's suing in a representative character. The grant of a probate, letters of administration or a succession certificate is not, however, an essential condition precedent to the institution of a suit, but the requisite probate, letters or certificate must be produced before the passing of a decree.

In the case of a Joint Hindu family when property passes by survivorship, no succession certificate is necessary (cf., 20 P.R., 1901).

Definition of debt.

(b) The word "debt" as used in section 214, sub-section (1), is defined to include any debt except *rent, revenue* or profits payable in respect of land used for agricultural purposes. The prohibition imposed on the Civil Courts does not therefore extend to Revenue Courts when dealing with suits under these heads (section 214, sub-section (2)).

Certificate for a fraction of the debt.

There was a difference of opinion amongst the High Courts as to whether a certificate could be granted with respect to a fraction of a debt but now by Act XIV of 1928 grant of such a certificate is made legal.

Application for a Succession Certificate to be signed and verified. Its contents.

(c) The particulars to be specified in an apnlication for a certificate are specified An section 372, and every application requires to be signed and verified in accordance with the provisions of the Code of Civil Procedure applicable to plaints; and sub-section (21 of this section prescribes the manner of dealing with allegations contained in the apnlication which may be found to be false. As the anplication now partakes of the nature of a verified plaint, great care should be taken to insist on its being properly and concisely drawn up, and that it is complete in regard to the matters required by section 372;

Manner of inquiry and security to be taken from the grantee of certificate.

(d) The proceedings in hearing applications may be summary to some extent, in that intricate questions of law and fact need not be gone into the person having the best title prima *facie* being granted the certificate. At the same time, the court is not relieved of the obligation to hear the parties and take sufficient evidence to enable it to decide who is the person best

entitled to a certificate, as well as all other points which may ordinarily be necessary to enable it to dispose of the petition. If the summary power conferred by section 373 sub-section (3), is followed in any case, the court is bound to demand security from the person to whom it proposes to grant the certificate as a condition precedent to such grant;

(e) Persons objecting to an application by another person can be heard without themselves becoming applicants, but every person opposing an application who claims a certificate for himself, must file a proper application in the manner prescribed by section 372. Every such application must be disposed of by a separate order ; but the question of right to a certificate among several applicants will generally be most conveniently heard in a single proceeding between the contending parties;

Objection to application. Procedure in case of several claimants for a certificate.

(f) In deciding which of several applicants is en- Points to be titled to a certificate, it is open to the court to consider the extent of interest and the *fitness in other respects* of the several applicants;

Points to be considered in deciding the cases of rival claimants.

(g) The debts and securities in respect of which a certificate is applied for must be detailed at length in the application and also in the certificate and the certificate must be limited in terms to the debts and securities specified in the application and also in the certificate—[section 372, sub-section (1), clause (f) and section (374)] At the same time, the court is empowered (by section 376 to extend the certificate, on the application of the holder thereof to any debt or security not originally specified therein, and otherwise to amend the certificate (section 378).

Application and certificate to contain details of debts and securities. Extension and amendment of the certificate.

4. The particulars reuired in the certificate are specified in section 374, and the forms are prescribed by section 377, and will be found in schedule VIII. Courts should be careful to see that certificates are properly framed and that all necessary particulars and powers are

Form and contents of certificate.

duly inserted in the first instance, so as to obviate the necessity for subsequent amendment of the certificate.

Requisition of security form grant of certificate.

5. It has already been pointed out that, in any case in which a court proposes to grant a certificate upon summary inquiry, without determining any intricate question of law or fact which may be involved, security must be taken under section 375, sub-section (1), from the person to whom it is proposed to grant a certificate before it is granted. The same remark applies to action under section 373, sub-section 4, of the Act, namely, when there are more applicants than one for a certificate, and more than one of them are found to be interested in the estate. It is, however, open to the court to demand security in any other case.

Court-fees in cash on application for a certificate or for its extension.

6. Attention is drawn to the provision as to court-fees, contained in section 379 of the Indian Succession Act, 1925. Every application for a certificate or for extension of a certificate must be accompanied by a deposit (to be placed in the treasury, of a sum equal to the court-fee payable under the Court-fees Act, viz., 2 per *centum* on the value of the debts and 3 *per centum* on debts to which the certificate is extended under section 376 of the Act— *(vide* Article 2, Schedule 1, of the Court fees Act, 1870).

Amount to be calculated according to scale in force on date of application.

The amount of court-fee should be calculated according to the law in force on the date of the application, and it is not affected by any subsequent change in the law.

Court-fee stamp to be purchased if application allowed. Refund for deposit or surplus money.

If the application is allowed, the money is to be expanded, under the direction of the court, in the purchase of the court-fee stamps required for the certificate when granted. In cases in which the application is rejected, or where an application is allowed, if the sum deposited exceeds the sum eventually required for court-fees, the deposit or surplus deposit (as the case may be) must be refunded. The application itself is of course only required to bear the usual court-fee prescribed for such applications.

No refund after grant of application.

In connection with the question of refund of deposits the attention of all Subordinate Judges exercising Powers under the Act is drawn to the ruling published as I.L.R. 21

Mad. 241. Once an application for a succession certificate is granted the sum deposited by the applicant cannot be refunded on the ground that he is unable to furnish security or that the necessity for obtaining a certificate has ceased.

The attention of all Commisioners and Deputy Commissioners in the Punjab and the Deputy Commissioner, Delhi, has been drawn to the instructions contained in stamps. this rule by the Financial Commissioners, Punjab, and the Chief Commissioner, Delhi, and on the suggestion of the Iion'ble Judges they have issued instructions to all Treasury and Sub-Treasury Officers that in all succession certificate cases the *ex-officio* vendor should issue court- fee stamps of the required denomination on production of a "Revenue Deposit Repayment Voucher" from the court concerned.

The procedure to be adopted is that the amount when deposited by the applicant should be credited into the Treasury as "Revenue Deposit" and re-drawn on "Revenue Deposit Repayment Vouchers" for the purchase of court-fee stamps required for the certificate when granted. Court-fee stamps should be purchased direct from the Officer-in-charge of the Treasury or the nearest Sub- Treasury in the name of the applicant, payment being made by "Revenue Deposit Repayment Voucher" drawn in favour of the Officer-in-charge, and the Officer-incharge should, in turn, credit the amount to Government by transfer credit to the appropriate head of account, viz., "IX—Stamps—B—Judicial—Sale of Stamps"

7. A succession certificate under Part X of the Act takes effect throughout India. (Section 380).

8. Provision is made in section 383 for revoking certificates on certain grounds which are specified.

9. Under section 215, a grant of Probate or Letters *of* Administration, supersedes a certificate granted under Part X of the Indian Succession Act, 1925, or under the Succession Certificate Act, 1889.

Decision in Succession Certi cate proceedings does not operate as *resjudicata*.

10. By section 387 of the Act, no decision, given in dealing with an application under the Act, upon any question of right between any parties bars the settlement of the same question by a competent Civil Court.

Surrender of the certificate if it is invalid or has been superseded.

11. By section 389, the holder of a certificate which has been superseded or is invalid from any of the causes mentioned in section 386 is bound to deliver it up on being required to do so by the Court which granted it, and may be punished for wilfully or without reasonable cause omitting to do so.

CHAPTER 7

PRESERVATION OF WILLS

PART A.-RULES

Punjab Government Notification No. 2649-Judicial, dated the 21st January, 1929, as amended by No. 15397-Judicial, dated the 23rd April, 1929, and No. 4649-J-41/43006, dated the 31st July, 1941, prescribes the following regulations for the preservation and inspection of Wills, under Section 294 of the Indian Succession Act, 1925.

Preservation and custody by District Judge granting Probate or letter.

1. Every District Judge shall file and preserve all original Wills of which probate or letters of administration with the Will annexed may be granted by him.

Fire-proof box to be provided.

2. For the preservation of such Wills each District wil be supplied with a fire-proof box, which shall be kept for safe custody in the Government Treasury, or, where the Treasury is situated at a distance from the Court, at such other place as the District Judge considers to be adequately protected in all respect.

Action to be taken before depositing the Will in the box.

3. When probate or letters of administration have been granted by the District Judge as aforesaid, the Will shall be detached from the file of proceedings relating to the grant of such probate or letters of administration, and after being endorsed with the name of the Testator, the date of the Will, the date of granting probate or letters of administration, the names and description of the persons to whom probate or letters of administration have been granted, the number of the file relating to the Will in the General District Register, and the number of the Will in the Register of Deposited Wills, shall be deposited in the fire-proof box.

Register of deposited Wills, Index.

4. The District Judge shall keep in English a Register of Deposited Wills, which shall be in the following form, and shall contain the particulars endorsed on the deposited Wills. An alphabetical index shall be prepared at the end of each year to the entires made in the Register:-

Serial No	Number of file in District General Register	Date of execution of Will	Date of granting probate or letters of administration	Persons to whom probate or letters of administration have been granted	Name of the testor	REMARKS

Procedure for obtaining inspection of the register.

5. Any person desirous of inspecting the Register of Deposited Wills shall be permitted to do so on his presenting an application to that effect to the District Judge. Such application shall be written on a stamp paper of the value of one rupee, and shall set forth the name, residence and occupation of the applicant with his reason for desiring to inspect the Register.

Procedure for obtaining inspection of the Will

6. Any person desirous of inspecting a deposited Will shall be permitted to do so on his presenting an application to that effect to the District Judge, accompanied with a fee of one rupee. The application shall be written on a stamp paper of the value of one rupee, and shall set forth the particulars specified in the preceidng rule.

Hour and manner of inspection.

7. The inspection of the Register of Deposited Wills or of a deposited Will, may be made between the hours of 11 A.M. and 3 P.M. on every day except authorised holidays, and shall take place in the presence of the District Judge or of an officer exercising the powers of the Subordinate Judge, deputed by the District Judge for the purpose. The applicant shall not be permitted, while making the inspection, to have pen and ink in his possession, but he may be allowed the use of pencil and paper for the purpose of taking notes.

Procedure for obtaining copy of the Will.

8. Any person desirous of obtaining a copy of a deposited Will shall present an application to that effect to the District Judge, accompanied with a fee of five rupees. Such application shall be written on a stamp paper of the value of eight annas, and shall contain the name, residence and occupation of the applicant, with the interest, if any, which he has in the Will, or his reason for applying for a copy. The copy shall be made at the expense of the applicant, and shall be certified unde rthe scal and signature of the District Judge.

Application for inspection of copies to be placed on record and noted in the register of Wills.

9. Applications for inspections or copies shall be filed with the proceedings connected with the grant of probate or letters of administration of the Will to which they relate; and in the Register of Deposited Wills, an entry shall be made in the column headed "Remarks"-

"Inspected By

19__________," or "copy given to," as the case may be.

10. All fees other than copying fees realised in cash under these regulations should forthwith be credited into the Treasury under the head XXI-Administration of Justice. The expenditure required by the District Judge for the preservation and inspection of the Wills under his custody, may be drawn in the same manner as ordinary contingent expenditure.

Fees realised how to be credited. Expenses how to be met.

11. The foregoing rules shall apply *mutatis mutandis* to Wills of which probate or letters of administration with the Will annexed may be granted by the High Court.

Foregoing rules also apply to High Court granting probate or letters.

PART B.-KEYS OF WILL SAFES

Inconvenience and expenses resulting from loss of keys.

1. Several instances have occurred in which the keys of the iron safes, provided for the custody of Wills in districts, under the rules contained in Punjab Government Notification No. 2649-Judicial, dated the 21st January, 1929, have been lost or mislaid; and in each instance it has been found impossible to fix the responsibility for the loss on any particular officer, as the charge of the keys has not been formally transferred when the changes of District Judges have taken place. Much inconvenience has resulted, and the Government has been put to considerable expense.

District Judge on tansfer should make over the keys & Treasurer's receipt for duplicate to his successor.

2. Each safe is provided with duplicate keys, one of which should be retained in the custody of the District Judge, the other being placed in a securely sealed cover and deposited in the District Treasury Strong Room, the Treasurer's receipt for it being filed in the District Judge's Office. When a District Judge is transferred he should make over the key of the safe and the treasurer's receipt for the duplicate to his successor, and record that he has done so on the transfer of charge papers sent to the High Court.

Duty of the District Judge to take over charge of the keys.

3. The District Judge for the time being will be held strictly responsible for the keys of the safe, and any officer taking over charge of the office of District Judge without taking over the keys, or reporting that they have not been made over, will be brought to account if at any time the keys are not forthcoming, and may have to bear the cost incurred by Government in having the safe broken open and in providing a new one.

Loss of keys should be reported to High Court.

4. If a key is lost the fact should at once be reported to the High Court with a full explanation of the circumstances.

CHAPTER 8

CIVIL COURTS ACCOUNTS

PART A.- GENERAL

Responsibility of Judicial officers for supervision.

1. The institution of the local audit departmer does not relieve officers of the duty of supervising nazir: cashiers or other clerks in regard to their fiduciary dutie connected with the attachment and sale of property, the expenses of witnesses in civil and criminal cases, the disposal of unclaimed property and fines, and the receipt and disbursement of sums paid into Court in execution of decree and miscellaneous civil and criminal proceedings without any sort of check or control on the part of the judicial officers who are primarily reponsible for the due performance by them of these duties.

Personal responsibility of officers for loss caused by negligence of law and rule, or supervision.

2. As the Government is responsible for the due application of all property and money received in accordance with law by any Court of Justice, the officer presiding over such Courts must be held directly and personally responsible for any loss caused by failure to observe rules or neglect on their part to exercise supervision and control over the officials subordinate to them in accordance with law and the orders issued by the High Court in regard to the care, custody and disposal of attached or unclaimed property, and to sums paid into court by litigants and others under the authority or by virtue of the provisions of the Codes of Civil or Criminal Procedure. The fact that security is taken from various subordinate officials under Chapter 18-C, Rules and Orders, Volume I, in no way relieves civil judicial officers from their personal reponsibility for the proper treatment and disposal of moneys made over to these officials.

An extract of Punjab Government circular letter No. 25070(Fin.-Genl.), dated the 15th July, 1945, to all Controlling Officers in the Punjab is reproduced as follows for general information:-

> "2. The Public Accounts Committee have noted that large sums have been lost through embezzlements and it understands that an examination of the various cases does not show any defect in rules. The inference, therefore, is that supervision has been defective.

3. In the circumstances the Central Government desires again to draw attention to the general principles to regulate the enforcement of responsibility for losses sustained by Government through fraud or negligence of individuals issued with Finance Department letter No. 30161-F, dated the 30th September, 1929, and to emphasize the importance which should be attached by all Government officials to the safeguarding of Government money. In particular, controlling and Disbursing Officers are requested to exercise strict supervision over their subordinates who handle Government money as it is only by such vicilance that the public revenues can be protected and the possibility of frauds minimized."

Periodical inspection of a accounts instructions repecuniary transactions.

3. Controlling Judicial Officers are required periodically to inspect, in a thorough and complete manner, the various registers and accounts maintained by nazirs, cashiers or other clerks; and every officer presiding over a court (whether civil or criminal) is further required to have all pecuniary transactions conducted under his personal direction and attested byhimself.

Note.- For rules affecting the Nazarat under the control of the District Magistrate, see Chapter 10, Punjab District Office Manual.

Checking of registers relating to pecuniary transactions by the presiding officers.

4. In order to ensure careful examination of the accounts kept at the Courts at headquarters as well as at tahsils, every officer presiding over a court (whether civil or criminal) should examine and check the registers of his court relating to pecuniary transactions and the custody of property, frequently and at least once a month, and should enter his initials and the date, after the last entry found in them. In discharging this duty, it is necessary to have each entry verified by the voucher which has been attested by the Judge and which is required to be placed on the record of the case to which the entry relates.

Special attention towards state of registers and accounts of Nazirs.

5. The state of the registers and accounts of nazirs, etc., should receive special notice in the reports of inspecting officers.

Pecuniary transaction with litigants should be taken up thrice a day.

6. (a) For purposes of pecuniary transactions with litigants in respect of the Sheriffs Petty Accounts and Civil Court Deposit Accounts, the rules for which are given respectively in parts D and E of this Chapter, the Officer-in-charge of the Nazarat or the Presiding Officer of the Court as the case may be, should interrupt his court work daily three times at fixed hours in order to dispose of all recuniary transactions.

Public notice as to monetary transactions Court.

(b) Notices in English and Vernacular should be posted on the Court's notice-board warning litigants in respect of deposits in the Sheriffs Petty Accounts and in the Civil Court Deposit Accounts (cash system) that –

(a) money should only be paid in the presence of the Officer-in-charge of the Nazarat or the Presiding Officer of the Court, as the case may be;

(b) incomplete receipts should be guarded against; and

(c) receipts are not valid unless signed by the Officer-in-charge of the Nazarat or the Presiding Officer of the Court, as the case may be.

In Courts in which the Civil Court Deposit Accounts (voucher system) is applicable, the notices should warn litigants that money will only be deposited by themselves in the local Treasury on challans given to them by the Court and that the receipts are not valid unless signed by the Treasury Officer.

Postal Money Order: Money received during absence of the presiding officer.

7. The rules for Sheriffs Petty Accounts and Civil Court Deposit Accounts (cash and voucher systems) provide for the receipt of money in a court by postal money order. The procedure laid down in those rules must be strictly followed for all postal money orders, as it is with regard tomoney so received by a court that defalcation may occur if the procedure is not followed. It is the duty of presiding officers of courts to make adequate arrangements for the receipt of money orders during their absence, and they are responsible for seeing with the least possible delay on their return to duty that money so received during their absence is duly brought to account.

Daily checking of Cash Books.

8. Before leaving office each day, the presiding officers of all courts shall check the cash balances in the hands of the Nazir or cashier and other clerks entrusted with the duty of maintaining accounts of monetary transactions with the cash book or cash books of the court which such official or officials maintain. They shall sign the books daily in token of check. Separate cash books are maintained as under:-

Account	By whom maintained	Authority
Sheriffs Petty Account	Civil Nazir, or Naib-Nazir or Cashier, as the case may be	Chapter 8-D, Volume II, Rules and Orders
Civil Court Deposit Accounts	Ditto	Chapter 8-E, Volume II
Copy Agency Account in District and Sessions Courts and Court of Small Causes at Amritsar	Examiner, or senior copyist where no examiner exists.	Chapter 17, Volume IV, Rule and Orders
All other items, e.g., pay of staff, contingency, etc.,	Civil Nazir, or Naib-Nazir or Cashier, as the case may be	Punjab Government Circular letter No. 42003 (Fin.-Genl.), dated the 9th December, 1935 (Article 32-C, Civil Account Code, Volume I).

Checking in the Court of District and Sessions Judge.

9. In the Court of District and Sessions Judge, the Superintendent being the senior ministerial servant is responsible for checking the work of his subordinates, including the Nazir, and for seeing that the accounts are properly maintained and that all financial rules are observed.

PART B.-AUDIT

Annual Audit.

1. The Sheriffs Petty Accounts, the Civil Court Deposit Accounts (cash system), the Copy Agency Accounts (District and Sessions Judges Courts and Courts of Small Causes), and the accounts of property made over to the Nazir for custody, will be audited as far as possible once a year under the orders of the Accountant-General by the Examiner, Local Fund Accounts or the Examiner, Outside Audit Department as the case may be and a staff of peripatetic auditors.

Paper to be placed at the disposal of Auditors.

2. Presiding Officers of Courts should cause to be placed at the disposal of the auditors all account registers, documents, etc., as well as any subsidiary papers which may be required by the audit officers.

Audit note to be sent to Court concerned and higher officers.

3. The results of audit will be communicated in printed or typed audit and inspection notes to the Courts concerned, to the District and Sessions Judge, and to the High Court.

Prompt attention to Audit notes.

4. Presiding Officers of Courts, the Senior Sub-Judge where he is the immediate controlling officer, and the District and Sessions Judge should deal promptly with these audit and inspection notes. The action taken should be recorded on an interleaved copy or on the margin of the notes. Copies of these annotated notes should be forwarded to the Examiner, Local Fund Accounts or the Examiner, Outside Audit Department as the case may be and to the High Court, through the immediate controlling officers, if any, and the District and Sessions Judge; and a copy should also be kept and produced for the information of the inspecting officer. The objection statement which accompanies the audit and inspection note should, after the objections recorded therein have been replied to, be kept and put up before the auditors at their next visit.

Inquiry into embezzlement, loss of property, etc.: Report to Accountant-General: Final report to High Court.

5. Whenever an embezzlement, loss of propert fraud or grave irregularity likely to lead thereto, i discovered, enquiries shall be instituted at once by th Presiding Officer of the Court and at the same time report made to the High Court through the immediat controlling officer, if any, and the District and Sessions Judge.

(a) Such cases as involve more than Rs. 200 or present important features which merit detailed investigation or consideration will also be reported by the presiding officer through the District and Sessions Judge to the Accountant-General as required by Article 29, Civil Account Code, Volume I.

(b) In submitting *final* reports, the following points will be reported on to the High Court:-

(1) The exact nature of the defalcation.
(2) The full extent of the loss.
(3) The actual period covered by the defalcation.
(4) The defects in or neglect of rules by which the loss was rendered possible and the circumstances which facilitated the defalcations
(5) The names of the officials held personally or technically, directly or indirectly, and wholly or partly responsible for the loss and irregularities committed, and the disciplinary action taken or proposed to be taken against each.
(6) Whether the case has been tried judicially or not, and if not, why? If so, three copies of the judgment should be forwarded.
(7) The remedial measures adopted as safeguards against recurrence of such defalcations of irregularities.
(8) The prospects of recovery of the loss.

The following circular letters of the Punjab Government, which describe the procedure to be adopted on the discovery of defalcations and the principles for the assessment of personal responsibility, should be carefully followed:-

Punjab Government, Finance Department, Memorandum No. 30161-F, dated 30th September, 1929.

Punjab Government, Finance Department, letter No. 21204 (Fin.-Genl.), dated 17th July, 1934.
Punjab Government, Finance Department, letter No. 42841 (Fin.-Genl.), dated 16th December, 1935.

Note.-These letters are reproduced in the appendix to these rules.

Irregularities; Refund of money kept out of account not allowed.

6. Experience has shown that presiding officer frequently fail to take any effective action whe irregularities are brought to their notice. There must be complete investigation of every complaint made to presiding officer. *In no case may a subordinate official b allowed to* refund money which has been kept out of account *without a report to the higher authorities.*Any such permission given by a presiding officer will be treated as a gross breach of discipline.

Destruction of records relating to audit.

7. No records or documents filed in any Court accounts should be destroyed till a period of one year ha elapsed since they were last audited, and if at the las audit any objection or remark was raised in connection with any record or document, such should be retained until the next audit and not be destroyed until one year has elapsed since the removal of the objection originally raised.

This does not apply to those records which under the rules of the Court from part of a case and are filed with the Court.

APPENDIX

Memo No. 30161-F., dated 30th September, 1929, from J.D. Penny Esq., I.C.S., Secretary to Government Punjab, Finance Department, to all Heads of Departments, District and Sessions Judges and Deputy Commissioners, in the Punjab.

The Governor *of Punjab desires to draw the attention of all officers of Government to the enclosed memorandum embodying the general principle to regulate the enforcement of responsibility for losses sustained by Government through fraud or negligence of individuals.

2. The Governor *of Punjab further desires that these principles should be carefully followed by all Government servants under the administrative control of the State Government.

A memorandum of general principles to regulate the enforcement of responsibility for losses sustained by Government through fraud or negligence of individuals.

Responsibility of officials for loss though fraud or negligence etc.

1. Means should be devised to ensure that every Government servant realises fully and clearly that he will be held personally responsible for any loss sustained by Government through fraud or negligence on his part, and that he will also be held personally responsible for any loss arising from fraud or negligence on the part of any other Government servant to the extent to which it may be shown that he contributed to the loss by his own action or negligence. The cardinal principle governing the assessment of responsibility in such cases is that every public officer should exert same vigilance in respect of public expenditure and public funds generally as a person of ordinary prudence would exercise in respect of the expenditure and the custody of his own money. While, therefore, Government are prepared to condone an officer's honest errors of judgment involving financial loss, provided the officer can show that he has done his best up to the limits of his ability and experience, they are determined.

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*Words "of Punjab" substituted for the words "in council".

To penalise officers who are dishonest, careless or negligent in the duties entrusted to them.

2. It is of the greatest importance to avoid delay in investigation of any loss due to fraud, negligence, financial irregularity, etc. If the irregularity is detected by audit in the 1st instance, it will be the duty of the audit officer to report immediately to the administrative authority concerned. If the irregularity is detected by the administrative authority in the 1st instance, and if it is one which should be reported to the audit officer in terms of Article 29, Civil Account Code, Volume I, he must make the report immediately. Every important case should be brough to the notice of superior authority should as soon as possible- the administrative authority should report to his superior and the audit authority to his superior. Should the administrative authority require the assistance of the audit officer in pursuing the investigation, he may call on that officer for all vouchers and other documents that may be relevant to the investigation and if the investigatiion is complex and he needs the assistance of expert audit officer to unravel it, he should apply forthwith for that assistance to Government who will then negotiate with the audit officer for the services of an investigating staff. Thereafter the administrative authority and the audit authority will be personally responsible, within their respective spheres, for the expeditious conduct of the enquiry.

Speedy equiry: Report to higher officers: Loan of audit expert.

Where account offices exist intermediary between audit and the administrative authority, the account offices will discharge the functions prescribed above for audit, but a report will still be necessary to the audit officer in terms of Article 29 of Civil Account Code, Volume I.

3. In any case in which it appears that recourse to judicial proceedings is likely to be involved, competent legal advice should be taken as soon as the possibility emerges. In the case of losses involving a reasonable suspicion of fraud or other criminal offence a prosecution should be attempted unless the legal adviser consider that the evidence available is not such as will secure a conviction. The reasons for not attempting a prosecution should be placed on record in all such cases.

Legal advice as to prosecution of the offender.

Responsibility of superior officer when loss is facilitated by lack of his supervision.

4. In cases where loss is due to delinquencies of subordinate officials and where it appears that this has been facilitated by laxity of supervision on the part of a superor officer, the latter should also be called strictly to account and his personal liability in the matter carefully assessed.

Points to be considered in fixing pecuniary liability of the officers concerned.

5. The question of enforcing pecuniary liability should always be considered as well as the question of other forms of disciplinary action. In deciding the degree of officer's pecuniary liability it will be necessary to look not only to the circumstances of the case but also to the financial circumstances of the officer, since it should be recognized that the penalty should not be such as to impair the Government servant's future efficiency.

In particular, if the loss has occurred through fraud, every endeavor should be made to recover the whole amount lost from the guilty persons, and if laxity of supervision has facilitated the fraud, the supervising officer at fault may properly be penalised either directly by requiring him to make good in money a sufficient proportion of the loss, or indirectly by reduction or stoppage of his increments of pay.

Information to be sent to Accounts officer and authority competent to sanction pension when an inquiry is progress in which pensionable Government servant is concerned.

6. One reason why it is important to avoid delay (*vide* paragraph 2 preceding) is that in the course of a prolonged investigation Government servants who are concerned may qualify for pension, and it is held that under the rules as they now stand (measures to rectify this are under separate consideration) a pension once sanctioned cannot be reduced or withheld for misconduct committed prior to retirement. It follows from this that, as a primary precaution, steps should be taken to ensure that an officer concerned in any loss or irregularity which is the subject of an enquiry, is not inadvertently allowed to retire or pension while the enquiry is in progress, and accordingly when a pensionable Government servant is concerned in any irregularity or loss, the authority investigating the case should immediately inform the Accounts or Audit Officer responsible for reporting on his title to pension and the authority competent to sanction pension and it will be the duty of the latter to make a note of the information and to see that pension is not sanctioned

before either a conclusion is arrived at as regards the Government servant's culpability, or it has been decided by the sanctioning authority that the result of the investigation need not be awaited.

7. The fact that officers who were guilty of frauds or irregularities have been demobilized or have retired and have thus escaped punishment, should not be made a justification for absolving those who are also guilty but who still remain in service. Guilty officers in service should not be absolved if others equally guilty retire.

No. 21204 (*Fin.-Genl.*), *dated Lahore the 17th July, 1934, from A.D. Grindal Esq. P.C.S., Offg. Secretary to Government, Punjab, Finance Department to all Heads of Departments, Commissioners of Divisions, District and Sessions Judges and Deputy Commissioners in the Punjab.*

SUBJECT: *Procedure to be followed in prosecutions for the embezzlement of Government Money.*

I am directed to refer to Punjab Government, Finance Department, letter No. 30161-F., dated the 30th September, 1929, regarding the general principles to regulate the enforcement of responsibility for losses sustained by Government through fraud or negligence of individuals and to forward a memorandum embodying certain additional instructions to be followed in the matter.

U.O. No. 1212 (Fin.-Genl.), dated 17th July, 1934.

Copy, together with a copy of the enclosure, forwarded to all Administrative Secretaries to Government, Punjab, for information.

MEMORANDUM

In the memorandum circulated with the Punjab Government, Finance Department, letter No. 30161-F., dated the 30th September, 1929, the general principles regulating the enforcement of responsibility for losses sustained by Government through the fraud or negligence of individuals were fully stated. The following supplementary instructions are issued for the guidance of departmental officers, with special reference to cases in

Which prosecutions in the criminal courts are, or are likely to be, necessary:-

Losses to be report to Audit Officer & official Superior.

(1) All losses of the kind refered to in Article 29 of the Civil Account Code, Volume I, must be reported forthwith by the officer concerned, not only to the Audit Officer, but also to his own immediate official superior. Reports must be submitted as soon as reasonable grounds exist for believing that a loss has occurred; they must not be delayed while detailed enquiries are made.

Report to be submitted to Government.

(2) Reports submitted under (1) above must be forwarded forthwith to Government through the usual channel with such comments as may be considered necessary.

Requisition for investigation by Police.

(3) As soon as a reasonable suspicion exists that a criminal offence has been committed the senior officer of the department concerned present in the station will report to the District Magistrate and ask for a regular police investigation under the Code of Criminal Procedure, 1898.

Manner of investigation.

(4) If the District Magistrate agrees that an investigation may be made, the senior officer of the department concerned present in the station will (a) request the District Magistrate to arrange for the investigation to proceed from day to day, (b) see that all witnesses and documents are made available to the investigating officer; and (c) associate with the investigating officer an officer of the department who is not personally concerned with irregularity leading up to the loss, but who is fully cognizant of the rules and procedure of the office in which the loss has occurred.

Procedure for deciding about prosecution.

(5) When the investigation is completed an officer of department (accompanied by the officer who attended the investigation) must be made available for conferences with the authority who will decide whether a prosecution should be instituted. If it is decided not to prosecute, the case must be reported through the usual channel to Government for orders.

Special arrangements for speedy trial.

(6) If it is decided to prosecute, the departmental representative will ascertain from the prosecuting officer whether, having regard to the engagements of the prosecuting staff, and the state of work in the court which

Would ordinarily hear the case, it is necessary to move the District Magistrate to make special arrangements for a speedy trial, and will request the prosecuting officer to make any application that he may think necessary.

Duty of the department concerned to help prosecution agency.

(7) When the case is put into court by the Police, the senior officer of the department concerned present, in the station will see that all witnesses serving in the department, and all documentary evidence in the control of the department, are punctually produced, and will also appoint an officer of the department (preferably the officer who attended the investigation) to attend the proceedings in court and assist the prosecuting staff.

Steps to be taken for lodging revision or appeal.

(8) If any prosecution results in the discharge or acquittal of any person, or in the imposition of sentences which appear to be inadequate, the senior officer of the department concerned will at once consult the District Magistrate as to the advisability of instituting further proceedings in revision or appeal, as the case may be, and if the District Magistrate is of opinion that further proceedings are necessary, will request him to proceed as he would in any other case.

Only the State Government may, in any case, direct that an appeal be filed from an order of acquittal. In cases instituted on complaint, the complainant can also apply to the High Court for grant of special leave to appeal from such an order. Section 417 of the Code of Criminal Procedure, as amended by Act No. 26 of 1955, should be consulted in this connection.

Reports to Government about Police investigation and prosecution.

(9) The senior officer of the department concerned present in the station will see that, in addition to the reports required under (1), (2) and (5) above, prompt reports are submitted to Government through the usual channel regarding:-

(a) the commencement of a police investigation;
(b) the decision to prosecute in any particular case;
(c) the result of any prosecution;
(d) the decision to proceed further in revision or appeal in any case;

(e) the result of any proceedings in revision or appeal.

Reference by department to Government.

(10) Notwithstanding anything contained in (2) – (9) above, the senior officer of the department concerned present in the station may, if he thinks fit, refer any matter through the usual channel for the orders of Government before taking action.

No. 42841 (Fin.-Genl.), dated Lahore, the 16th December, 1935, from C.M.G. Ogilvie, Esq., C.B.E., I.C.S. Secretary to Government, Punjab Finance Department to all Heads of Departments, the High Court, Commissioners of Divisions, District and Sessions Judges and Deputy Commissioners in the Punjab.

SUBJECT: *Department Enquiry in cases of Fraud and Embezzlement of Government Money in which Government servants are involved.*

Summary of previous instructions.

In the Finance Department memorandum No. 30161-F., dated 30th September, 1929, general principles were laid down to regulate the enforcement of responsibility for losses sustained by Government through fraud or negligence of Government servants. It was therein stated (among other things) that it is of the highest importance to avoid delay in the investigation of any such loss; that, where it appears that recourse to judicial proceedings is likely to be involved, competent legal advice should be taken as soon as the possibility emerges; that where there is a reasonable suspicion of fraud or other criminal offence, a prosecution should be attempted unless the legal advisers consider that the evidence available is not such as will secure a conviction; and that, where loss is due to delinquencies of subordinate officials and where it appears that this has been facilitated by laxity of supervision on the part of a superior officer, the latter also should be called strictly to account.

These principles were supplemented by instructions contained in the memorandum attached to the Finance Department letter No. 21204 (Fin.-Genl.), dated 17th July, 1934. These instructions had special reference to cases in which prosecutions in the criminal courts, are, Or are likely to be, necessary; and laid down (among other things) that as soon as a reasonable suspicion exists that a criminal offence has been committed, the senior officer of the department will report to the District Magistrate and ask for a regular police investigation; and explained the procedure that should follow the investigation.

Department inquiry should not be delayed pending criminal trial.

2. It is now desired to explain as clearly as possible what is necessary to be done in the way of departmental enquiry where a prosecution is, or is likely to be, instituted. It has been found that, where fraud or embezzlement of Government funds has occurred, there is a tendency for the head of the office or department to regard the institution of criminal proceedings as absolving him from the unpleasant and often laborous task of conducting immediately a through departmental enquiry. This natural reluctance may be enhanced by an apprehension that an enquiry may prejudice the result of the trial in a court of law. As a result, there has sometimes been great delay in taking departmental proceedings and the results have been inconclusive. The Central Public Accounts Committee in their report on the accounts of 1933-34 have agreed with the Auditor-General that departmental enquiries should not necessarily be delayed pending decision of criminal cases, as at a later stage the evidence might disappear and the departmental enquiry could not be brought to any conclusion at all.

Inquiry should go on as far as possible before prosecution begins, but findings and sentence should not be recorded until after the disposal of the criminal case.

3. Experience shows that departmental proceedings cannot as a rule proceed concurrently with a criminal prosecution. Much of the evidence in a case of fraud or embezzlement is documentary. As soon as the criminal proceedings begin the documents go to the court as exhibits, and there they must remain till the case is over and (if and appeal is filed) till the appeal is over. But it is essential that every thing should be done to carry the departmental proceedings as far as possible before prosecution begins. The stage to which departmental proceedings, prior to prosecution should be taken must depend on circumstances and cannot be precisely defined. The normal procedure is laid down in Rule 55 of the Civil Services (Classification, Control and Appeal) Rules; and the stage which departmental proceedings can reach may according to circumstances be any one of the stages described or implied in the Rule i.e., the preliminary recording

Of evidence the receipt of the delinquent's written statement after the framing of a charge, the personal hearing, or the enquiry. If it is intended to prosecute, a finding and sentence should not be recorded in the departmental proceedings till after the disposal of the criminal case; but it must be emphasized that the proceedings should be completed up to the point that can properly be reached.

Cases in which several persons are involved but all are not to be prosecuted.

4. A common type of case is that where a number of persons are involved one or more criminally, and others in such circumstances as show negligence, or warrant the suspicion of criminal abetment without sufficient proof to justify prosecution, or have similar features which necessitate a criminal prosecution of one or more and a departmental enquiry against others. In such cases the authority has sometimes neglected to institute a formal departmental enquiry, or to carry it to the requisite stage, before criminal proceedings are taken, when the criminal case is over, effective departmental action has been found impracticable.

Cases in which several persons are involved but all are not to be prosecuted.

5. The general rule should be that in all cases of fraud, embezzlement, or similar offences departmental proceedings should be instituted at the earliest possible moment against all the delinquents and conducted with strict adherence to the rules up to the point at which prosecution of any of the delinquents begins. At that stage it must be specifically considered whether further conduct of the departmental proceedings against any of the remaining delinquents is practicable; if it is, it should continue as far as possible (which will not, as a rule, include finding and sentence). If the accused is convicted and awarded an adequate sentence, the departmental proceedings against him will be formally completed, and the proceedings against other delinquents continued. If accused is not convicted or the accused is inadequately punished, the departmental proceedings against him will be resumed, as will also those against the remaining delinquents.

Action under Public Servants' (Inquiries) Act.

6. The proceedings contemplated in these instructions are those which are regulated by the Civil Services (Classification, Control and Appeal) Rules. Where action is taken under the Public Servants (Inquiries) Act XXXVII of 1850, this ordinarily takes the place of a criminal prosecution as regards the person or persons accused; but the procedure as regards other persons involved against whom the

Act is not employed should be in accordance with the instructions given above.

U.O. No. 3458 (*Fin,-Genl.), dated the 16th December, 1935.*

Copy forwarded to all Administrative Secretaries to Government Punjab, for information, in continuation of Finance Department U.O. No. 1212 (Fin.-Genl.), dated 17th July, 1934.

PART C.- RULES FOR THE MAINTENANCE OF ACCOUNTS IN REGARD TO SUMS DEPOSITED IN COURTS UNDER SECTION 31 (2) OF THE LAND ACQUISITION ACT AS COMPENSATION PAYABLE TO PERSONS WITH RESTRICTED POWERS OF ALIENATION, ETC.

Money paid under section 31 of the Act be deposited in the Treasury.

1. Money paid into the District Court under section 31 of the Land Acquisition Act must be lodged into the Treasury as a Revenue or Civil Court deposit under the rules applicable to such deposits, until its investment as required by section 32 *ibid.*

Register of such deposits to be maintained.

2. A register shall be maintained in each District Court to show the receipt and disposal of deposits made therein by the Land Acquisition Officer under section 31 (2) of the Land Acquisition Act on behalf of minors, widows, and any other persons to whom the deposits cannot be paid on disposal of the case.

Contents of the register.

3. This register shall contain particulars as to the name of each person to whom compensation is payable, the case, the amount and the final disposal thereof either by investment or by payment to guardian or purchase of land, etc.

Procedure for disposal of money deposited.

4. After the deposits are made and brought on the register, the Court shall proceed to take action in regard to the investment or disposal of money deposited in accordance with the instruction contained in section 32, 33 and 34 of the Land Acquisition Act.

Account to be opened when money is invested otherwise than in the purchase of land.

5. When the money is invested otherwise than in the purchase of land an account in the ledge form should also be opened for the person on whose behalf the money is invested to show payment of interest and final disposal.

PART D.- SHERIFFS' PETTY ACCOUNTS.

SECTION I.- Systems of Accounts

Items included.

1. Sheriffs' Petty Accounts relate to sums received by Officers-in-charge of process serving agencies and intended for immediate disbursement. The majority of such items consist of diet money for witnesses, and also include such items as expert fees or commission fees. A detailed list of items which may properly be included in these accounts is given in Schedule A to these rules. No item should be deposited in this account if it should under other rules be credited direct to Revenue Heads.

Accounts to be sent to Treasury daily and at the close of the month.

2. The sums so received being petty, and the money being intended for immediate disbursement, these items form an exception to the general rule which forbids the appropriation of receipts to expenditure. The Nazir or Cashier is allowed to receive the money in cash, without remitting it to the Treasury and to make payments out of the money in his hand. A limit is, however, imposed, and the Officer-in-charge must remit the surplus to the Treasury whenever the balance in his hand exceeds a certain amount. He should also remit to the Treasury the total balance in his hands on the last working day of the month. (See rule 34). In respect of these balances the Treasury acts merely as a banker, and the full responsibility for maintaining detailed accounts rests with the Officer-in-charge of the agency.

Registers.

3. (a) A detailed list of the registers and forms to be maintained in the agencies is given in schedule B to these rules; and specimens of the registers and forms are also reproduced there. There are two principle registers of receipts and of disbursement known as "Register of Receipts" and "Register of Disbursement". There is also a "Cash Book".

How entries in the Register of Receipts are to made. Progressive total and balances.

(b) The "Register of Receipts" is in itself complete and should be confined to money received either in cash or by money order. The entries in the register should be made strictly in the chronological order of receipts and they occur. *i.e.*, the number of receipts issued should be serially noted in column 2 of the register. Whenever any

Entry of disbursement is made in the "Register of Disbursements" the item is again entered in the "Register of Receipts" against the original deposit, with a view to guard against improper disbursements. Progressive totals of daily receipts should be made beneath the daily total and continued till the end of the month. From the monthly progressive total the total payment as per the "Register of Disbursements" is to be deducted to arrive at the net balance at the end of each month, which should be carried forward from month to month to work out the progressive net balance at the end of the year. This balance should agree with the total of the balances appearing in the treasury and cash columns in the "Cash Book" (*vide* sub-paragraph (d) below). An analysis of the outstanding balances at the end of each month should also be prepared in the remarks column of this register. The balance for each month going back to the three complete financial years should be worked out separately from the "Register of Receipts" and the total of the items thus worked out proved with the balance in the "Cash Book".

Progressive totals of payments.

(c) Similarly, the "Register of Disbursements" is completed and should be confined to a daily record of payments to entitled payees. The daily entries should be totaled up and the progressive totals of daily payments should also be made beneath the daily totoal till the end of the month.

Cash Book.

(d) (i) The daily totals of receipts in the "Register of Receipts" and of payments in the "Register of Disbursements" will be carried to the "Cash Book" in the cash column the closing balance of the previous month being noted as opening balance of the next month on the first day of that month. Payments into and withdrawals from the Treasury should be accounted for in this "Cash Book" in the manner described below.

Entries in Cash Book of payments into and withdrawals from Treasury.

(ii) When the amount is paid into the Treasy an entry will be made on the payment side in the column "cash" and a *per contra* entry will be made on the receipt side in the column "treasury". Similarly, when money is drawn from the Treasury an entry will be made on the payment side in the column "treasury" and a *per contra* entry will be made on the receipt side in the column "cash". Progressive balance on each day should be struck under the signatures of the "Office-in-charge".

(iii) At the close of the month, there will be no cash balance in the hand of the Nazir. The balance with the treasury as per (Treasury column) cash book should be worked out and agreed with the balance as shown in the Treasury Pass Book.

Comparison of Cash Book with Treasury Pass Book.

4. The principal financial duties of the Officer-in-charge of an agency may be briefly summarized:-

Duties of the Officer in-charge.

(i) to see that no payments are made except against deposits shown in the "Register of Receipts".

(ii) to see that no payments are made except against deposits shown in the "Register of Receipts";

(iii) to verify the balance by frequent physical verification of the cash balance in the agency and by comparison of the treasury balance shown in the "Cash Book" of the agency with that shown in the "Treasury Pass Book"; and

(iv) to see that remittances into and withdrawals from the Treasury when required are promptly and correctly made.

If these duties are properly carried out, there should be no risk of defalcation and any clerical error in the accounts should be immediately detected.

5. In respect of the balances remitted thereto the Treasury maintains a Personal Ledger Account in the name of the agency concerned the working of which is described in detail in section IX of these rules.

Personal Ledger Account in the Treasury.

6. No books of account other than those prescribed may be maintained, and no change may be made in the existing forms of the registers, without the sanction of the High Court in consultation with the Accountant-General. If for any reason additional registers are found necessary, however, the Officer-in-charge of an agency should not hesitate to apply for permission to introduce them.

Proper forms and registers to be maintained.

It has been frequently noticed in the course of inspection that the registers in use are not in the proper form but are either out of date, or are in a form intended for use only in Treasuries. Every effort should be made to obtain the proper forms.

Money, orders Intermediate Register.

7. Whenever money is received by money order, the Nazir must first enter particulars to identify the transaction in the "Court's Intermediate Register". The Officer-in-Charge of the agency or in his absence another judicial officer empowered in this behalf by the District Judge will then both initial the "Intermediate Register" in respect of the transaction and sign the money order receipt before handing over the receipt to the postman and the money with the money order coupon to the Nazir for further disposal. Such an officer must see that all items in the "Intermediate Register" are cleared by transfer entries to the appropriate "Register of Receipts" on the day of receipt if possible or the next morning and initial both the "Intermediate Register" and the "Register of Receipts" in verification of this having been done by the Nazir.

SECTION II- Agencies

Classes of agencies.

8. There are four classes of agencies which are required to maintain Sheriffs' Petty Accounts. The Office maintaining these accounts is usually known as the Nazarat. The four classes are as follows:-

(i) The principal process-serving agency at the headquarters of a district. The deals with processes received from Civil, Revenue and Criminal Courts. This agency is under the control of the Senior Subordinate Judge or the Administrative Subordinate Judge in districts in which the latter officer has been appointed. It will be referred to as Senior Subordinate Judge's Agency.

(ii) The District Judge's agency in those districts in which the District Judge has been allowed to maintain a separate agency owing to the distance of his Court from the Senior Subordinate Judge's agency.

(iii) The Small Cause Courts' agencies, which are under the control of the Judge of the Small Cause Court. In Simla, the agencies of the Senior Sub-Judge and the Small Cause Court are identical.

(iv) Agencies at outlying stations which are either in the charge of a Subordinate Judge or of a Tahsildar.

Local agent.

9. The agencies of the District Judge and the Senior Subordinate Judge are in the subordinate charge of a Naib-Nazir and a Civil Nazir's respectively, who receives cash and makes payments. In the Small Cause Courts of Amritsar and Delhi, the same duties are performed by a Cashier. In outlying stations they are performed by a Naib-Nazir or a Madad Naib-Nazir. For the sake of simplicity, the officer concerned will be referred to in these rules as the Nazir or the local agent.

Control over agencies. Delegation of duties.

10. The principal Judicial Officer-in-charge of the agencies mentioned in rule 8 is responsible for the prompt and efficient service of all processes received in his agency. The Senior Subordinate Judge or Administrative Subordinate Judge is also responsible for general control of all agencies other than those of a District Court or of a Small Cause Court. The Senior Subordinate Judge or Administrative Subordinate Judge or the Judge of a Small Cause Court may, under special permission from the High Court, delegate certain of his administrative duties either to another Subordinate Judge or to a Registrar. The order of delegation should state exactly what duties have been delegated. In such cases, however, they will still remain responsible for general supervision. District Judges and Officers-in-charge of outlying agencies may in no case delegate their duties.

Security.

11. (a) Nazirs are responsible in the first instance for the proper upkeep of the accounts and for the security of the cash in their hands. Security is required to be deposited by them and by certain other members of the process-serving establishment as laid down in Chapter

18-C, Rules and Orders, Volume I, from which the following is extracted:-

		Rs.
Civil Nazir (senior Subordinate Judge's agency	...	500
Nazir, Cashier (Small Cause Court's agency)	...	1,000
Naib-Nazir (District Judge's, Senior Subordinate Judge's, and Small Cause Court's agencies and other agencies including Subordinate Judges' Courts at stations where there is a treasury or sub-treasury)	...	200
Naib-Nazir, (Senior Subordinate Judge's agency)	...	100
Naib-Nazir, Madad Naib-Nazir (Agencies at stations where there is no treasury or sub-treasury including Courts of Subordinate Judge so located)	...	500
European Bailiff	...	50
Execution Bailiff	...	50
Process Servers (for Delhi only)	...	[1]200

[2][Note Deleted]

Duties of Civil Nazir.

(b) The Civil Nazir is also the head of the process-serving establishment of the district, other than that working directly under the District Judge or the Judge of a Small Cause Court. His duties are:-

(i) to submit reports relating to the members of the establishment or their duties to the Senior Subordinate Judge; or the Administrative Subordinate Judge.

(ii) to arrange for the distribution of processes among process-servers and the transmission of processes to agencies located at tahsils;

(iii) to see that the prescribed accounts are properly maintained by the staff working under his immediate control; and

(iv) to prepare correspondence regarding the payment of diet-money of witnesses and other similar matters.

Inspection of accounts by inspecting officers.

12. District and Sessions Judges and District Magistrates when inspecting subordinate courts should invariably inspect the process-serving officer's accounts and note the fact that this has been done in their inspection reports.

SECTION III-*Receipts of processes and Deposits by the Agencies*

Applications for deposit: How to be dealt with.

13. When an application involving a deposit in the Sheriff's Petty Accounts is presented in Court, as for example, an application for summoning of witnesses to whom diet-money is to be paid, the Court Reader shall note thereon the number of the case, I order to enable the process-serving agent to make the necessary entry in the "Register of Receipts". After the usual orders have been passed and recorded by the Court, the applicant shall tender the amount of his deposit togetherwith the application to the local agent who will fill in columns 1 to 7 of the "Register of Receipts", prepare a "Receipts" in foil and counterfoil on the prescribed form, and issue the foil to the depositor as a receipt for the money deposited after it is signed by the Officer-in-charge.

NOTE.- If the application is for the summoning as a witness of a Government servant, it must state (1) his full official designation. (2) the amount deposited for traveling expenses and (3) the amount deposited for diet-money or subsistence allowance, and these details must be copied into the "Register of Receipts".

Applications for deposit: How to be dealt with.

14. After the serial number of the "Register of Receipts" has been noted on the application by the agent and the usual daily check exercised by the Officer-in-charge,

The application should be returned to the Court concerned for record. The counterfoil receipts will be retained by the agent and produced for audit.

Procedure when a Court is far from the Court of Senior Sub-Judge.

15. When the Court of a Subordinate Judge or Tahsildar is situated at such a distance from the Senior Subordinate Judge's or Administrative Subordinate Judge's Court as to render the frequent transmission of applications to the local agent inconvenient, the Senior Subordinate Judge or Administrative Subordinate Judge may direct that both the applications and money should be received by an official the Subordinate Judge's Court and a receipt in foil and counter foil on the prescribed form prepared by such official and granted to the depositor after it is signed by the presiding officer of the Court. At the end of the day, all such applications together with the money and the receipt counterfoils should be sent to the process-serving agent who will enter the necessary particulars of each application in his "Register of Receipts" and return the applications and the receipt counterfoils to the Court concerned with the number in the "Register of Receipts" of each item noted both on the application and in column 2 of the counterfoil concedrned.

NOTE.- Column 2 of the receipt foil will be blank in these cases.

Processes for service within the district to be sent to local agent.

16. All processes issued by Courts for service within the district should be sent to the local agent and should contain a reference to the amount deposited with the agent.

Process for service in another district.

17. Processes issued by a Court for service in another district will be made over to the local agent by the issuing Court for entry in the Register in Form No. 6 in Schedule B to this Part of the Chapter and transmission to the Senior Subordinate Judge or Administrative Subordinate Judge of the district in which the person to be served resides. The amount deposited with the local agent on account of subsistence and other expenses as noted on the original and duplicate copy of the process will be transmitted by the agent by postal money order to the Senior Subordinate or Administrative Subordinate Judge of the district in which service is to be affected, the cost of the postal money order being borne by the party at whose instance the process is issued. The Senior Subordinate Judge or

Administrative Subordinate Judge of such other district, shall, in the event of the process not being served, return the amount by postal money order less cost of commission on such order.

18. Courts issuing processes to other districts should take measures to call for the prompt return of the money remitted on account of processes which, have not been served, and such sums after being accounted for in the accounts of the local agent in the usual way should be returned to the person taking out the process, and excluded from the account of the costs of the suit.

Steps to get back money if process not served.

NOTE 1.- To ensure that all sums remitted to other districts on account of processes which have not been served, are duly returned and correctly accounted for, the "Register of processes including warrants (etc., received from_ Tehsil/District with/without diet money or *Munadi* fee by the Process Serving Agent at ".Should in the case of the agencies of the District Judge, the Senior Subordinate Judge, and the Small Cause Court, be checked monthly by Superintendent of Clerks of Courts and quarterly by the Officer-in-Charge: and monthly by the Presiding Officers of Courts in the case of agencies at outlying stations. Where there are more Courts than one situated in the same building or in close proximity at outlying stations the Register should be checked by the Senior of the Presiding Officers. Result of these checks should be recorded in the following form:-

Periodical checking of the register to ensure that, all sums are un-served processes have been duly received and accounted for.

"Certified that I have personally checked the entries in the "Register of processes including warrants, etc., received from Tahsil/District with /without diet money or *Munadi* fee by the Process Serving Agent at_ _" for the month of/quarter ending _ _ and am satisfied that all sums in respect of unserved processes have been duly received and correctly accounted for except as follows:-

NOTE 2.- Process received for service from other districts are entered in the relevant volume of the Register; Form No. 6 in Schedule B is this Part of the Chapter.

Processes received for service from other districts to be entered in register Form No. 6.

19. Processes issued by a Court sitting at the head-quarters of the district or a tahsil, for service on a person residing within the tahsil, where such Court is situated will be made over to the local agent in charge of the process-serving agency. The local agent will thereupon

Service of processes within the jurisdiction of local agent.

Arrange as follows for payment at the time of service of sums due to persons to whom the processes are addressed.

SECTION IV.-*Transmission of processes and money to process-servers*

Procedure when processes and money are delivered to process-servers.

20. Such sums as are mentioned in rule 19 will be given to the process-servers together with the processes, but before this is done the following procedure must be carried out:-

(a) Each process should entered in the "Register of processes received and disposed of by the local agent".

(b) Payment to process-server should be entered in the appropriate column of the "Register of Receipts" against each sum.

(c) Payment entries should be made in the "Register of Disbursements" and the process-server's acknowledgement of receipt in column 11.

(d) Details of each sum should be entered in the "Process-server's Note-book".

[3][No process-server should have more than Rs. 200/- in hand at any one time.]

21. When a process-sever pays diet money to a witness, he shall take the receipt of the actual payee in column 8 of his note-book as well as on the back of the original cop of the process on which serve is endorsed. The payee's acknowledgement should invariably be verified by one or more respectable witnesses, the date and signature of the serving officer being added. To minimize the risk of mis-appropriation the courts concerned should ascertain before proceeding with the cases that the witnesses appearing before them are the persons whom the diet money has been actually paid.

22. The processes whether served or not will be returned to the local agent. If the service is effected and the money connected therewith paid to the payee, the local agent shall verify the service with the acknowledgement of the payee given in column 8 of the process-server's note-book as well as on the back of the original copy of the process, and submit the latter to the court concerned with the usual certificate of service, at the same time filling up columns 12 and 13 of the "Register of processes received and disposed of by the local agent".

Procedure when processes are returned served by the process-server.

23. In the case of non-service, the undisbursed amount returned by the process-server shall again be entered against a new number in the "Register of Receipts". The new number in the "Register of Receipts" should be quoted against the original entry in the "Register of Receipts" and noted in column 10 of the process-server's note-book, column 11 of which should also be signed by the agent in acknowledgement of the money having been received back from the process-server. The process will then be returned to the Court concerned with a certificate of non-service after filling up columns 12 and 13 of the "Register of Processes received and disposed of by the local agent".

Procedure when processes are returned un-served.

NOTE 1.- With a view to seeing that rules 20 to 23 are complied with, the process-servers note books should in the case of the agency of the District Judge be checked monthly by the Superintendent and in the case of the agencies of the Senior Subordinate Judge and the Small Cause Court be checked monthly by the Clerks of the Courts. All these note books shall also be checked quarterly by the Officer-in-Charge; and monthly by the Presiding Officers of Courts in the Case of agencies at outlying stations. Where there are more Courts than one situated in the same building or in close proximity at outlying stations the note-books should be checked by the Senior of the Presiding Officers. The results of these checks should be recorded in the following form:-

Checking of process-servers' note-books.

Month of
"Certified that I have personally checked the accounts for the_
Quarter ending
and am satisfied that they are correct and in order except as follows:-"

NOTE 2.- When unserved processes are returned to the local agent it shall be the duty of the latter to see that undisbursed diet-money remitted with the processes is also returned to him and entered in the "Register of Receipts".

Local agent to see that money is duly accounted for in the case of unserved processes.

SECTION V.- *Transmission of processes money between agencies*

24. Processes issued by a Court situated within the limits of one Tehsil (Whether it be the headquarters Tehsil or an outlying one) for service on a person residing within the limits of another tahsil in the district will be made over

Processes sent by one agent to another in the same district.

to the agent at the place where the Court issuing the process sits and such agent will transmit the process (duly endorsed with the amount, if any, which is to accompany the process) by post or (Where absolutely necessary) by messenger, to the agent of the Tehsil within which service is to be effected after making the necessary entries in columns 1 to 11 of the "Register of processes received and disposed of by the local agent".

Processes sent by one agent to another in the same district.

25. Processes received by one agency from another in the same district will invariably be returned direct to the agent from whom they were received, and he will return them to the Court concerned.

Amount to be sent by money order.

26. The amount to accompany a process transmitted under rule 24 will, after making the usual entries in the "Register of Receipts" and the "Register of Disbursements" be sent by postal money order to the agent concerned along with the process, the money order commission being recovered from the party at whose instance the process is issued and the money order being addressed to the Officer-in-charge (as defined in rule 8 under section II) of the agency in which the agent works. The said Officer-in-charge shall take delivery of the money order over his own signature in the manner laid down in rule 7 under section 1 and he shall also see that the amount is transferred from the "Intermediate Register" to the "Register of Receipts" on the day of receipt if possible or the next morning. The agent after carrying out the procedure detailed in the rule 20 (b), (c) and (d) under section IV shall cause the process to be served and the amount disturbed to the payee in the same manner as if the process had been issued by one of the Courts of his own agency.

Processes received from other tahsils should be entered in register No. 6.

NOTE 1.-Processes received from other should be entered in the relevant volume of the Register; Form No. 6 in schedule B to this Part of the Chapter.

Duty of Officer-in-charge to see that money received is brought on to Receipt Register.

NOTE 2.-The officer-in-charge (as defined in rule 8 under Section II) of the receiving agency must satisfy himself that all amounts accompanying of process transmitted under this rule have brought on to the "Register of Receipts".

27. In the case of non-service the amount (less money order commission) will be returned by postal money order to the Officer-in-charge of the agency from whom it was received. The said officer shall take delivery of the money order over his own signature in the manner laid down in rule 7 under section I and he shall also see that the amount is transferred from the "Intermediate Register" to the "Registered of Receipts" on the day of receipt if possible or the next morning; such amount will be entered by the agent against a new number in the "Register of Receipts" which number should also be quoted against the original entry in the "Register of Disbursements".

Procedure in case of non service.

28. The agent to whom a process is sent for service will invariably return the same, with a certificate of service or non-service, as the case may be, duly endorsed thereon and signed by the Officer-in-charge, to the agent from whom he received the process, and the latter will thereupon fill in the relevant Volume of Register; Form No. 6 in Schedule B to this Part of the Chapter and then forward the process to the Court which issued it.

Certificate of service or non-service.

NOTE.-The certificate of service or non-service should be signed by the Officer-in-charge after satisfying himself of the correctness of the certificate.

SECTION VI.-*Refund of deposits.*

29. Any undisbursed balance of a deposit will be paid to the depositor when a refund of the same is claimed by him. In such cases and in all other cases in which undisbursed money has been ordered by the court to be paid to the proper person, the court shall issue a "payment order" in the prescribed form to the local agent, who, after taking the payee's acknowledgement in the space provided for the purpose and making the necessary entries in the "Register of Receipts" and the "Register of Disbursements", will pay the amount due. The number to be quoted on the top of the "payment order" will be the serial number of the transaction in the "Register of Disbursements."

Refund of deposits payment order. Undisbusbursed diet-money to be sent by money orders.

NOTE (1).-In accordance with Punjab Government letter No. 3679-S. (Home-Judl.), dated the 3rd August, 1931, and No. 4953-J-39/27606, dated the 24th August, 1939, and Chief Commissioner, Delhi's letter NO. F-4 (8)/39-General, dated the 5th December, 1939, undisbursed witnesses' diet-money deposits in Civil, Criminal and Revenue cases not exceeding Rs. 25 in amount should be returned without notice to the depositor by money order, the cost of the money order commission being deducted from the sum to be refunded. The courts should inform the

Nazir of the cases in which judgement has been pronounced.

NOTE (2).-Before the record of a decided case is consigned to the Record Room, the Reader of the court shall attach to it a certificate that undisbursed deposits of diet-money payable to witnesses have in all cases, where necessary, been refunded to the depositors. The Record Keeper should be receive the record unless this certificate is attached to it.

NOTE (3).-The provisions of this rule and notes (1) and (2) were also applicable to repayment of deposits of advertisement charges of newspapers in cases of submitted service.

Payment order: Renewal and lapping.

30. The Court's payment order referred to tin the preceding rule will remain in force for a period of one month. No payment can be made on a lapsed order unless it is renewed in the following manner. On the production of a lapsed payment order the authority which originally granted it may, if satisfied that the person producing it is entitled to received payment, revalidate the order by the following endorsement:-

Renewed __

Signed _

Dated __

Daily checking of the entries in the Receipt Register.

31. At the end of the day the Officer-in-charge of the agency shall compare the entries made in the "Register of Receipts" with the applications and the counterfoils of receipt issued and, after satisfying himself of their correctness, should set his initials against each entry in column 8 of the "Register of Receipts".

Daily attestation of entries by Officer-in-charge: Certificate as to correctness of accounts for the period when officer was absent.

32. All entries of receipts in "Register of Receipts" and of payments in "Register of Disbursements" and in the payment column of the "Register of Receipts" should be duly attested by the Officer-in-charge of the agency on the day of transaction before the office is closed for business. If, however, the is absent he should within a week of his return check the accounts and forward a certificate to the District Judge that he has carefully scrutinised the records of all the monetary transactions which took place

in his absence and has satisfied himself that they have all been brought to account and that no irregularities have been committed.

Money order coupons and payee's postal receipts to be kept in guard file and reference to their number given in proper registers.

33. Payee's receipts received through the post office for amounts sent by money orders order Section III, Rule 17, or under Section V, Rules 26 and 27, or under the special orders of the Court, should be pasted in a guard file and a reference to their number in the guard file inserted in column 11 of the "Register of Disbursements". Similarly, coupons of money orders received should be pasted in a separate guard file and a reference to their number in the guard the inserted in column 6 of the "Register of Receipts".

SECTION VIII.-*Dealings with the Treasury*

Remittances to Treasury. Documents to accompany.

34. [4] [1] Remittances to Treasury Documents to accompany-Whenever during the month the sum in the hand of the agent at the headquarters of a district is Rs. 20,000 or more and that of a Sub Division Agent is Rs. 10,000 or more, the surplus over Rs. 20,000 and Rs. 10,000, respectively shall at once be remitted to the Treasury or Sub-Treasury. Each such remittance shall be accompanied by a memorandum in the form given below and the Treasury pass book and a challan (Stereo A and T Form 192) which will be returned to the agent duly receipted by the Treasury Officer or the Sub-Treasury Officer, as the case may be:-]

(1) Balance in hand (if any)	…
(2) Withdrawals from Treasury since last remittance	…
(3) Deposits received since last Remittance	…
Total	…
Payments made since last Remittance	…
Balance	…
Amount now remitted to the Treasury	…
Balance in hand	…

1. Amended vide the Correction Slip No. 6/Rules/II.D4 dated 05.11.2012

At the end of the month the entire amount in the hand of the agent will also be remitted into the treasury of sub-treasury in accordance with the procedure indicated above.

Withdrawals from Treasury.

35. On the other hand, in the rare cases when the balance in the hand of the Nazir falls below the amount required for immediate disbursement, he will recoup himself by means of a cheque on the Treasury to be signed by the principal Officer-in-charge after he has satisfied himself by personal inspection of the accounts that the withdrawal is necessary.

NOTE.- The cheque should be sent to the treasury along with the treasury pass book which will be returned to the agency after nothing the withdrawals, duly attested by the Treasury Officer. Such withdrawals are in the nature of recoupment of an advance and should not be regarded as the repayment of a particular item by means of payment on the Treasury. The Nazir will remain responsible for individual disbursements.

Transactions with Treasury to be entered only in cash Book.

36. Neither the balance paid into the Treasury, nor the amount withdrawn therefrom under the preceding rule, should be shown in the "Register of Receipts" and the "Register of Disbursements". These remittances and withdrawals will be shown only in the "Cash Book" as their effect is to deprete or increase the amount in hand of the Nazir. These transactions will be shown in the manner prescribed in rule 3(d) (ii).

Duty of Officer-in-Charge.

37. The principal duties of the Officer-in-charge in this connection are to see that money is promptly remitted to the Treasury whenever the amount in the Nazir's hand exceeds the permissible limit and that no unnecessary withdrawals are made, and also to watch that the balance in the hand of the Nazir, on the last working day of the month, is remitted to the Treasury so that it may be included in the accounts of the Teasury on that day. The monthly balancing of the account should show at a glance whether the Nazir had remitted to the Treasury the amount which he is supposed to have sent; and it is also necessary for the Officer-in-charge to satisfy himself that the remittances have been promptly made by reference to the treasury receipts which should be filed in a separate guard file.

SECTION IX.-*Treasury Accounts*

Personal Ledger and Pass Book.

38. The Treasury will maintain a Personal Ledger Account in form 44 Civil Account Code, in the name of each agency dealing with it and will supply the agency

With a “Pass Book”. The Pass Book should be sent monthly to the Treasury Officer, for verification of the balance shown in it.

Entries gross receipt and gross payments in Ledger and Cash Book.

39. (a) On each occasion that a remittance is made to the Treasury, the gross receipts and gross payments noted in the memorandum prescribed in rule 34 shall be entered in the receipt and payment columns, respectively, of the Persoal Ledger Account and the amount actually credited into the Treasury added to the previous balance to arrive at the progressive balance to be shown in column 5 thereof. The amount remaining in the hand of the Nazir, at the time of each intermediate remittance should be noted in the remarks column.

In addition to being entered in the Ledger Account the gross receipts and the gross payments shall be carried to the receipt and payment side of the Cash Book against the head “Sheriffs’ Petty Accounts”.

Entries to be made when amount is withdrawn.

(b) In the case of payments made from Treasury on cheques the progressive balance as shown in column 5 shall be reduced and the amount noted in the remarks column (as amount in the hand of Nazir) in the manner provided in clause (a) above.

Reconciling difference between the Balances as shown in the Treasury’s and Accounts balance sheets.

(c) As, however, in the case of the intermediate remittances described in rule 34 above the whole of the surplus of receipts over payments is not credited into the treasury, but part remains with the Nazir, as also in cases in which amounts are drawn by cheques from the treasury, it is clear that to enter gross receipts and gross payments in the cash book will result in a difference between the balances as shown in the treasury’s and accountant’s balance sheets. To reconcile the discrepancy, the amount remaining in the Nazir’s hand should be shown separately:-

(i) in the remarks column of the Personal Ledger Account; and
(ii) in the accountant’s daily balance sheet, the entry in the last being on the same principle as the entry of a sub-treasury balance.

The treasury shall continue to shown these balances in the balance sheet until the entry is cancelled by a corresponding credit at the treasury at the end of the month.

Delegation of lapsed deposits.

40. In addition to the gross payments as indicated in rule 39 the other entry in the treasury account will be the annual deduction of lapsed deposits as reported by the agent, the adjustment of which shall be made in the office of the Accountant-General by credit to the Head XLVI-Miscellaneous-Unclaimed deposits. The Treasury Officer will simply reduce the balance of the personal ledger account.

SECTION X.-*Monthly verification of accounts*

Comparison of balances in the books of the agent and the Treasury Pass Book.

41. On the last working day of the month the agency will proceed to compare the balance shown in its own books with the balance shown in the "Treasury Pass Books".

Note.-The last working day of the month as referred to in this and the other rules in this Chapter means the last working day on which the accounts of the treasury or sub-treasury, as the case may be, are closed.

Working out balance List of unrefunded lapsed items.

42. There will be three balances in the books of the Court. One balance will be struck at the end of the month in the "Register of Receipts" and will shown the total amount outstanding from all previous deposits, less the amount which has lapsed to Government. This balance will be made up of two other balances; one will be the balance in cash with the Nazir as shown in the "Cash Book" and the other will be the balance of remittances to the Treasury as shown in the "Pass Book". The comparison of the balance in the "Cash Book" shall be made at the end of each month with the balance shown in the "Register of Receipt" as under:-

		Rs.	P.
Opening balance	…		
Receipts for the month as	…		
Per "Register of Receipts"	…		
Total	…		

Payments for the month as shown in
The "Register or Disbursements"
(plus lapsed items which will appear
in March only) ...

Closing balance ...

Details

Balance as per "Treasury Pass Book" ...

Balance in the hand of the Nazir as per
"Cash Book" (which should be remitted
to the treasury after verification on
the last day of the month) ...

Total ...

At the end of each month the Officer-in-charge of each agency should also prepare a list of unrefunded deposits not lapsed to Government working up the balance (including the Treasury Balance). The balance for each month going back to three complete financial years should be worked out separately from the "Register of Receipts" and proved with the balance at the end of the month as depicted by the "Cash Book".

Physical verification of balance in the hands of the Nazir.

43. The balance in the hand of the Nazir should be physically verified by the Officer-in-charge of the agency who should record a note as follows before it is remitted to the treasury:-

"I have myself today counted the cash in the hand of the Nazir under the Head "Sheriffs' Petty Accounts" and find that the amounts to Rs. as shown in the Cash Book".

This verification should not only be made monthly, but surprised inspections should also be made at frequent intervals in order to ensure that the Nazir is not using the balance for other purposes during the middle of the month. Inspecting Officer should also check the cash balance by physical verification.

Monthly comparison Nazirs Balance with Treasury Pass Book. Certificate.

Report to superior officers to be made in case of discrepancy not being reconciled.

44. The balance should be checked by the Officer-in-charge with the "Treasury Pass Book" at the beginning of each month and he should record a certificate to the following effect in the "Cash Book":-

"I have today compared the Treasury balance as shown in the books of the agency with the balance shown in the "Treasury Pass Book" and I find that they agree".

If any discrepancy is found in the account, the Officer-in-charge of the agency should immediately take steps to have the accounts reconciled and to see that no error has crept in. If the accounts cannot be reconciled by the middle of the month following that to which the balance relates the discrepancy must be at once reported to the District Judge who will personally take steps to have the discrepancy reconciled. If the District Judge cannot do this by the end of the month, a report must be sent to the High Court and to the Accountant-General.

Difficulties in the working of accounts to be reported to higher authorities.

45. Any difficulties which may be found in the working of the accounts as the result of the monthly verification should be reported to higher authorities with proposals for their removal.

SECTION XI-*Lapsed items*

Deposits to lapse after three years.

46. Notwithstanding the provisions of Article 206, Civil Account Code, Volume I, and in partial modification thereof, all deposit items relating to Sheriffs' Petty Accounts irrespective of their amounts shall remain current for three complete account years and shall lapse to Government at the end of that period.

NOTE.- Amounts paid to process-servers for disbursement to payees shall be considered as final payments, and any undisbursed amounts refunded by them to the Nazir shall be treated as fresh deposits for the purposes of lapse.

Statement of lapsed items to be prepared and sent to Treasury Officer at the end of March.

47. (a) The Officer-in-charge of an agency shall prepare a statement of lapsed items on form 29, Civil Account Code, in March each year and strike them off from the "Register of Receipts" on the last day of the financial year

By entering them in column 20 provided for the purpose, the date of lapse being noted below the amount. The total amount of lapsed items as per statement so prepared should agree with the total of outstanding balances prior to three complete account years as shown in the analysis of the outstanding balances in the remarks column of the "Register of Receipts" (*vide* rule 3under section 1) and as worked out in the memorandum prescribed in rule 42 under section X. This statement should be submitted to the Treasury Officer on the last working day of March for adjustment under rule 40 under section IX.

Certificate by Officer-in-charge on the statement.

(b) The Officer-in-charge of an agency shall record on the statement a certificate to the effect that all amounts due to lapse to Government have been included in the statement.

One copy of the statement to be kept for audit.

(c) One copy of the statement of lapse items should be kept with the agency for audit on the spot by the Local Audit Department.

Reducing of balance by Treasury Officer.

(d) The Treasury Officer shall reduce the balance of the Personal Ledger Account by the total amount of lapsed items and shall forward to the Accountant-General the statement in form 29, Civil Account Code, with the monthly accounts for March.

Report *re:* lapsed items.

48. Items so lapsed if claimed should only be paid by the Treasury Officer after the necessary sanction of the Accountant-General has been obtained on form 30, Civil Account Code.

SECTION XII-Miscellaneous

49. Diet money (i.e. subsistence allowance levied in accordance with Chapter 5-C of Volume I and Chapter 9-A of Volume III of the Rules and Orders) deposited in these accounts under rule 9 of these rules in respect of servants of the Government appearing as witnesses in Civil and Criminal cases will not be paid to them, but will credited in the Treasury under the Head "XXI-Administration of Justice Miscellaneous Fees and Fines-Other items". Similarly, all sums deposited for traveling expenses in respect of these servants, who are not entitled to receive such expenses from the Court, will be credited in the Treasury under the same Head.

In the case of employees of the Central Government sums on account of road and diet money will be deposited

Into the Treasury to the credit of department concerned in the receipt Schedule of the Central Department. In the case of Railway employees the amount is creditable to the accounts of Railway concerned under the head adjusting account with Railway in the Provincial Section of the Accounts. In each case the following particulars will be inserted in the challan:-

(1) Name of witness.
(2) Official designation.
(3) Office in which employed.
(4) Name of Court in which he appeared.
(5) Date of hearing.
(6) Names of parties to the suit.

The following is the proper head of account under which subsistence allowance etc., of Government servants of Himachal Pradesh and other States etc., should be deposited when they appear as witnesses in the Civil Courts in Punjab:-

Serial No.	Classification of Employees	Head to which creditable
1	Employees of States other than the Punjab State	S. Remittance inter-State suspence A/C with-State.
2	Employees of Himachal Pradesh Government	S. Remittances Central H.P. Government suspense.
3	Employees of Central Government under the audit control of AGCR, New Delhi	S. Remittances Adjusting A/C between Central and Provisional Government, Account Between Civil and Civil. A/C between AGGR and Punjab. III Items adjustable by AGCR.
4	Employees of the Central Government under the audit control of Accountant General, Punjab	To the corresponding receipt head in the Central section of A/C of the Department of the Central Government to which the Government servant belongs.

NOTE.- The reader of the Court concerned should give timely information to the Civil Nazir that the statement of the servant of the Government appearing as a witness has been duly reiorded, so that there may be no avoidable delay in crediting the subsistence allowance into the Treasury, As a further safeguard, the reader of the court should, before the record of a decided case is consigned to the Record Room, attach to it a certificate that the subsistence allowance of all the servants of the Government, who have appeared as witnesses in the case, has been credited into the treasury under the relevant head. The Record Keeper should not receive any record to which this certificate is not attached.

50. The acceptance of commission fees by Government servants is governed by rule 558 of the Civil Services Rules (Punjab), Volume I, Part I, and by Supplementary Rule 12.

Forms of Receipts.

51. The forms of "Receipts" will be machine-numbered with a book number and a receipt number on each foil and counterfoil and bound into books each containing 200 forms.

Custody and issue and checking of Receipt Books and Cheque Books.

52. "Receipt" books and "Cheque" books will on receipt by the agency be entered in the "Stock Book of Receipt and Cheque Books" and remain in the personal custody of the Officer-in-charge. Issues will be made by the Officer-in-charge to the Nazir after accounting for such issue in the stock book. The number of Cheque and Receipts forms in each book should, when received, be checked and a certificate to this effect recorded on the cover of each copy.

Each page of register and account book to be paged and sealed and number of pages to be counted.

53. Each page of every register and book of account shall be paged and sealed, and an endorsement shall be made at the end of such register or book showing the number of pages and signed by the Officer-in-charge.

Custody of Registers and forms.

54. All Receipts and Sheriffs' Petty Accounts and blank forms etc., shall be kept under lock and key.

SHERIFFS PETTY ACCOUNTS RULES

List of items which may properly be included in Sheriffs' Petty Accounts.

(1) Sums deposited by parties as the expenses of witnesses, fees of expert witnesses, and commission fees, in civil, criminal and revenue cases.

(2) Deposits of advertisement charges of news-papers in cases of substituted service.

(3) Sums deposited for immediate disbursement as costs in partition cases (revenue).

(4) Sums deposited as costs in connection with applications for Probate, Letters of Administration, and Succession Certificates, other than the cost of stamps deposited by applicants, under Act XXXIX of 1925.

(5) All petty items received for immediate disbursement in full except when they are deposited in courts following the cash system for Civil Court Deposits.

SHERIFFS' PETTY ACCOUNTS

List and specimens of registers and forms to be maintained or used in Sheriffs' Petty Accounts.

(1) Register of Receipts.
(2) Register of Disbursements.
(3) Cash Book.
(4) Treasury Pass Book.
(5) Receipt Form.
(6) Register of processes including warrants, etc., received from _ Tehsil /District_ with/without diet money of *Munadi* fee by the Process Serving Agent at .
(7) Note-book of process-server.
(8) Payment Order Form.
(9) Challan Form.
(10) Cheque Form.
(11) Form No. 29, Civil Code, Volume I.
(12) Form No. 30, Civil Account Code, Volume I.
(13) Stock book of forms of Receipt Books/Cheque Books.
(14) Intermediate register of money orders, etc.,

(This register is reproduced in the Civil Court Deposit Rules. As there will be one such register in each Court for all money order transactions, such transactions as relate to Sheriff's Petty Accounts will also be included in it.)

FORM NO. 1

(Vide Rule 3.)

REGISTER OF RECEIPTS OF SHERIFFS PETTY ACCOUNT DEPOSITS AT HE AGENCY OF THE……………….FOR THE MONTH OF ………………………….19 .

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
									DETAIL OF PAYMENTS											
Date of receipt	Number of each deposit	No. of file of the case in which deposited	Name of the Court and of the parties with name and Tahsil number of the village in which the file is to be kept	From whom received	Nature of deposit	Amount of each deposit	Initials of Officer-in-charge	Daily Total	Date	Amount of each payment	Initials of Officer-in-charge	Date	Amount of each payment	Initials of Officer-in-charge	Date	Amount of each payment	Initials of officer-in-charge	Total of payments	Lapsed and credited to Government	REMARKS
						Rs				Rs			Rs.			Rs				

FORM NO. 2.
(Vide Rule 3.)
REGISTER OF DISBURSEMENTS OF SHERIFFS' PETTY ACCOUNTS DEPOSITED AT THE AGENCY OF THE..................FOR THE MONTH OF ....19 .

DETAILS OF ORIGINAL DEPOSIT			Date of present payment	Yearly Serial No.	To whom paid	Amount paid	INITIALS OF		Daily total carried to Cash Book	Payee's receipt
Date of receipt	Number as per Register of Receipt	Amount of balance of deposit								
1	2	3	4	5	6	7	8	9	10	11
		Rs.				Rs.			Rs.	

FORM NO. 3

(Vide Rule 3.)

CASH BOOK OF SHERIFFS' PETTY ACCOUNTS SHOWING CASH BALANCE IN THE HAND OF THE NAZIR EACH DAY AT THE AGENCY AT FOR THE MONTH OF_ 19 .

1	2	3	4	5	6	7	8	9	10
	RECEIPTS			PAYMENTS			BALANCE		
Date	Particulars	Cash	Treasury	Particulars	Cash	Treasury	Cash (3-6)	Treasury (4-7)	Initials of the Officer-in-charge
1-4-37	Opening balance (1) Daily total as per register of receipts	Rs. .. 200	Rs. 4,000 ..	(1) Daily total as per register of disbursements.	Rs. 150	Rs. ..	Rs.	Rs.	
2-4-37	Total (1) Daily total as per register of receipts (2) From Cash ..	200 500 ..	4,000 .. 250	(2) Daily total as per register of disbursements. (2) Paid into treasury	150 100 250	.. .. ..	50	4,000	
3-4-37	Total (1) Daily total as per register of receipts (2) Withdraw from treasury Total	700 280 150 1,130	4,250 4,250	(1) Daily total as per register of disbursements (2) For cash	500 530 .. 1,030	.. .. 150 150	200 100	4,250 4,100	

FORM NO. 4
(Vide Rule 3)
Form 65 C.A.C., Vol. II
TREASURY PASS BOOK FOR THE SHERIFFS' PETTY ACCOUNTS OF THE _

Dr.		RECEIPTS		
Month	Date	Particulars of Receipts	Amount	Initials of Treasury Officer

Cr.		Payments			
Month	Date	*Particulars of cheque cashed*		Amount	Initials of Treasury Officer
		Number of cheque	Number of Book		

FORM NO. 5

(Vide Rule 13)

Receipt for deposit in Sheriffs'
Petty Accounts in Agency at

_ Counterfoil of Receipt.

Book No._

Receipt No._

Date	
No. of entry in register or receipts ..	
Name of Agency	
Name of depositor	
Amount deposited	
Signature of officer-in-charge	

Receipt for money deposited in Sheriffs'

Petty Accounts in Agency at_

Book No._

Receipt No._

Date	
No. of entry in register or receipts ..	
Name of Agency	
Name of depositor	
Amount deposited	
Signature of officer-in-charge	

FORM NO. 6

(Vide Rule Nos. 17 and 20)

Register of processes including warrants, etc., received from_______ Tehsil/District_______ with/without diet money of Munadi-fee by the Process-Serving Agent

Serial No.	1
Date of receipt of process	2
Name of the Court, Tehsil and District from which received.	3
Case No.	4
Name of Parties	5
Description of Process	6
Amount of Process-fee (Talbana) levied	7
Amount with detail of diet-money or Munadi-fee received with the process	8
Reference to correspondence Serial No. and date of Register of receipts (Form No. 1 Sheriffs' Petty Accounts Rules)	9
Purpose for which received	10
Name of person on whom process is to be served	11
Date fixed by the issuing Court for return of the process	12
No. and name of Process-Server or Bailiff by whom to be served or Tehsil or District to which sent for service together with abstract of immediate order	13
Date on which made over to Process-Server for service or on which sent to other District and Tehsil	14
Reference to corresponding Serial No. and date of Register of disbursements (Form No. 2 Sheriffs' Petty Account Rules)	15
Date of return from Process-Server or other District or Tehsil	16
Whether served or unserved	17
Amount of diet-money received back in case of unserved process with No. 6 of entry in the Register of Receipts (Form No. 1) in which return money accounted for	18
Date of return of undisbursed diet money	19
Date of submission of process to the issuing Court with abstract of final orders	20
Remark	21

(C.S. No. 1-A/I.L.3, dated the 25th October, 1963.)

FORM NO. 7
(Vide Rule 20)
NOTE-BOOK OF__________________PROCESS-SERVER ATTACHED AT_________________AGENCY

1	2	3	4	5	6	7	8	9	9A	10	11	12
	To be filled up by the Agent (Nazir)				*To be filled up by process-server*					*To be filled up by the Agent (Nazir)*		
Date	Reference to No. of item in Register of Disbursements	Name of person to whom money is to be disbursed	Amount	Initials of the process-serving Agent (Nazir)	Date of service	Amount paid	Acknowledgement	Amount disbursed	Signatures of the witness in whose presence the amount was paid	Number of item in Register of Receipts against which re-deposited	Signature of the process-serving Agent (Nazir)	REMARKS
			Rs.			Rs.		Rs.				

FORM NO. 8

(Vide Rule 29)

PAYMENT ORDER ON SHERIFF'S PETTY ACCOUNTS AT......................

Serial No. of Register of Disbursements

Original Number		Date of deposit		Name of depositor		Amount originally deposited	

Pay Rs

Dated Presiding Officer.

Received this----------------day of -----------19------the sum of Rs---------N.P.--------------------
----being the amount payable to------------on account of the undisbursed deposit described above.

Claimant's signature----------

(Vide Rule 34)

CHALLAN

STEREO A AND T.T.M. No. 192

Challan of each paid into Treasury

On 19 .

Name of person paying the money	Amount paid (in words and figures)
On account of Name of person actually tendering the cash	
Head of account Received from Rupees To the credit of Government as stated heein Treasurer Accountant Treasury Officer.	Date

Form No. 10

(*Vide* Rule 35)

CHEQUE

(Books of personal ledger account cheques as supplied by Treasury Officer)

Form No. 11

(*Vide Rule 47)*

Form No. 29 C.A. C. Vol. I
Stereo A. and T.C.A .C No. 5

STATEMET OF LAPSED (CIVIL CRIMINAL COURTS OR REVENUE DEPOSITS OF THE _ TREASURY FOR THE YEAR_ 19 .

PARTICUALRS OF DEPOSITS			FOR USE IN ACCOUNTANT-GENERAL'S OFFICE				REMARKS
			Refund order				
Year	No	Balance lapsed	No.	Dated	Amount of refund sanctioned	Initials	
Margin for filing		Rs. P.			Rs. P.		
Total carried over							

_ Court
at_ Officer-in-charge.
Dated_

Treasury Officer

FORM NO. 12

(Vide Rule 48)
Stereo A and T. No. 6 Form No. 32 C.A.C.
Volume I
VOUCHER No.
REFUND OF LAPSED DEPOSITS

To

THE ACCOUNTANT-GENERAL_

SIR,

The following refund of Lapsed Deposits, aggregating Rs. (in words)_ have been claimed by of whose identity and title to the money I have satisfied myself. I request your sanction to the refund.

Class of Deposit	PARTICULARS OF ORIGINAL DEPOSIT		Balance credited to Government	Date of Lapsed Statement	Amount claimed	Remarks
	Year	No.				
			Rs. P.			

(Sd.)

_ District

Judge, Magistrate or other

The_ 19 . Officer.

Designation of other Officer_

*Accountant-General's Office No._ , dated_*

Sanctioned_

Assistant Accounts Officer
_ , Punjab
Assistant Accountant-General

Received Payment

Claimant

Pay Rupees( )_ only.

The_ 19 .

Examined Accountant Treasury Officer

Notice-The signature of the claimant should be obtained on this form and the form should be returned as a voucher in support of the debit.

For use in Accountant-General's Office Serial No. in No. Book

ADMITTED_	Noted in the Number
OBJECTED TO________	Book of the Orders
Auditor. Exmr. Supdt.	Superintendent

FORM NO. 13

(Vide Rule 25)

RECEIPT BOOKS

STOCK BOOK OF FORMS OF_ IN THE COURT OF_ CHEQUE BOOKS

RECEIPT INTO STOCK							ISSUES FROM STOCK					Balance on receipt or issue	Initials of Officer-in-charge	Number & date of
Date	From whom	*number of*		*Serial Nos. of forms*		Date	To whom	*Number of*		*Serial Nos.*				
		Books	Forms	From	To			Books	Forms	From	To			

PART E.- CIVIL COURT DEPOSIT ACCOUNTS
SECTION A.- General

Amounts included.

1. Civil Court deposits consist of sums which ae either paid into Court or paid into the Treasury under the orders of the Court with the intention that they should be paid out again either to the depositor or to a third person and should not be finally credited to Government until they lapse to Government under Article 206, Civil Account Code, Volume I. Civil Court Deposit Accounts relate to all deposits other than those which may properly be included in Sheriffs Petty Accounts. The large majority of such items are decretal amounts; a list of other items which may be included in these accounts is given in Schedule A to these rules.

Cash and voucher systems.

2. The system of accounts varies according as the Court is ordinarily permitted to receive and repay deposits in cash or is required to carry out both transactions through the Treasury. These two systems, known as the cash and voucher systems respectively, are described in sections B and C which prescribe the different classes of Courts in which each system is to be followed. The rules given in this section apply to all courts alike.

Bailiffs' note-books and their checking.

3. In order to watch the return and execution of warrants, etc., entrusted to the Execution Bailiffs and to see on what dates the amounts were realized by them and paid into the Treasury, each Execution Bailiff shall maintain a note-book in the form prescribed in Schedule B to these rules. This note-book shall be printed in Vernacular.

NOTE.-The note-books of execution bailiffs will be checked as laid down in note 1 to rule 23 of the Sheriff Petty Accounts Rules with the modification that such checks will be performed monthly by the Superintendent or the Clerk of Court, as the case may be and quarterly by the Presiding Officers in the case of accounts maintained in Courts of District Judge and Senior Subordinate Judge and in a Small Cause Court; and monthly by the Presiding Officers of all other Courts. Where there are more Courts than one situated in the same building, or in close proximity at outlying stations, the note-books should be checked by the Senior of the Presiding Officers.

Particulars of the warrant to be entered in Bailiff note-book.

4. Before a warrant is handed over to the Bailiff for execution its particulars should be entered in columns 1 to 9 of his note-book by the Nazir. The remaining columns should be completed by the Bailiff or the Nazir, as the case may be, after the execution of the warrant.

NOTE.-Rules 3 and 4 also apply to Process Servers who are entrusted with the execution of warrants.

5. If the amount to be receipted on the payment voucher exceeds Rs. 500 the claimant will be required to affix a Rs. 2 revenue receipt stamps.

Stamp or receipts

NOTE.-In cases in which joint interest are involved a deposit repayment voucher for a sum exceeding Rs. 20 should be held to be sufficiently stamped if a single receipt stamp is affixed to it even though it may be receipted by more than one person.

6. Each of the Courts mentioned in Section B rule 11 shall have a separate personal ledger account for its deposits distinct from that maintained for the Sheriffs' Petty Accounts.

Separate ledger for Courts mentioned in Section B.

7. Under rule 53 of Chapter 4-B, Rules and Orders, Volume II, the initial deposit made by an applicant for adjudication as insolvent is to be shown as a deposit under these rules. Insolvency Courts exercising powers of summary administration may also act as receivers of the Insolvents' estate.

Initial deposit by applicant in Insolvency cases.

Separate registers with regard to such sums may be maintained provided the Nazir or Cashier remains responsible for the accounts and combines these with the rest of the Civil Court Deposit Accounts at the end of the month.

8. There will be a separate set of accounts for each Court, and the Presiding Officer of each Court will be personally responsible for the supervision of the accounts of his own Court (in the absence of special permission from the High Court to delegate his duties). When an Additional Judge is appointed to a Small Cause Court, a separate account will be opened, and there will also be a separate account for the Court of Registrar.

Separate accounts for each Court.

9. The term "Nazir" in these rules includes a Cashier and a *Naib-Nazir.*

"Nazir" defined.

10. Money orders addressed to the Courts must be signed by the Presiding Officer and by no one else except another judicial officer appointed to discharge the duties of the Presiding Officer during temporary absence. It is absolutely forbidden for Superintendent, Clerks of

Money orders.

Court of other ministerial officers to sign them. The Presiding Officer, at the time of receiving any money orders, shall first see that the Nazir has entered sufficient particulars thereof to identify the transactions in the "Court's Intermediate Register" and he will then both initial the "Intermediate Register" in respect of the transaction and sign the money order receipt before handing over the receipt to the postman and the money with the money order coupon to the Nazir for further disposal. The money order coupon shall be treated as the depositor's application and the procedure with regard to such applications shall be followed with regard to it. The Presiding Officer must see that all items in the "Intermediate Register" are cleared by transfer entries to the appropriate "Register of Receipts" on the day of receipt if possible on the next month and initial both the "Intermediate Register" and the "Register of Receipts" in verification of this having been done by the Nazir.

SECTION B-*The Cash System*

Courts following cash system.

11. This system is to be followed in the Courts of Small Causes at Amritsar and Delhi, and in all Courts situated at stations where there is no Treasury or Sub-Treasury. The Court of Small Causes at Simla follows the system prescribed in Section C.

System of accounts.

12. The accounts to be maintained in these Courts are in the main the same as those laid down in the rules for Sheriffs Petty Accounts to which reference will hereinafter be made as the Sheriffs Petty Accounts Rules. The principal points of difference are-

(a) The audit authorities are required to check the disposal of all Civil Courts deposits, and a detailed return of all receipts and payments must accordingly be made to the Accountant-General (Rules 36 and 37).

(b) In certain cases repayment may be made by cheque instead of cash (Rules 22 and 26), and these repayments have to be treated differently from withdrawals from the Treasury made under the Sheriffs' Petty Accounts Rules.

13. A detailed list of the registers and forms to be maintained is given in Schedule B to these rules. There are three registers, viz., “Register of Receipts”, “Register f Disbursements”, and “Cash Book”, in the same forms as those prescribed by the Sheriffs Petty Accounts Rules with a difference in respect of the “Register of Disbursements” in which the payment column is sub-divided into two columns “Cash” and “Treasury” for recording cash and cheque payments separately for facility of posting in the “Cash Book”. These registers must be kept separate from those of the Sheriffs Petty Accounts.

Registers and Forms.

Receipt of Deposits

14. When a deposit is tendered by a depositor in person, he will present an application to the Court. This application will be verified from the judicial record of the case concerned by the Ahlmad and if it is in order, he shall pass it on to the Nazir. The Nazir shall then fill in columns 1 to 7 of the “Register of Receipts” and prepare a “Receipts” on the foil and counterfoil on the prescribed form and he shall also note on the application over his initials the serial number of the entry in the “Register of Receipts”. The Nazir shall then produce the depositor and these documents before the Presiding Officer who, if he approves the deposit, shall initial column 8 of the “Register of Receipts”, hand over the foil of the “Receipt” to the depositor, and receive the money from him. He shall then pass on the money and the application to the Nazir for further action. If he does not approve the deposit, he shall cancel, over his own signature, the entries which have been made by the Nazir in all these documents including the register.

Application for deposit.

NOTE.-Entries of deposits in the “Register of Receipts” will be numbered in a separate entries for each official year.

15. When a deposit is made by a Bailiff or a Court Auctioneer, he shall put in a similar application, The receipt will be granted to him, but will shown the deposit as made on behalf of the judgment-debtor. Receipts granted to bailiffs will be pasted in their note books.

Deposits by Bailiffs and Court Auctioneers.

16. When a deposit is made through the post by cheque issued by Government Department or by remittance transfer receipts, the accompanying letters will be treated as the application, and the “Receipt” will be sent

Deposit by cheque or Remittance Transfer Receipts.

to the depositor with an endorsement showing the manner of remittance. The cheque or remittance transfer receipt will be sent to the treasury the same day, the Nazir's accounts being balanced by showing the amount as paid into the treasury in the manner provided for remittances of surplus balances in rules 27 and 28. Particulars of the cheque or R.T.R. shall be entered in the "Intermediate Register" as laid down in Rule 10.

Deposit by money order.

17. When the deposit is received by money order, the money order coupon will be treated as the application. A "Receipt" will be drawn up and will be attached to the coupon for being placed on the judicial record. All money orders addressed to the Court will be received by the Presiding Officer as laid down in rule 10.

Deposits in case of prohibitory orders against salaries of Crown and Railway servants.

18. Deposits in Courts which maintain accounts according to the cash system in this section, in respect of prohibitory orders issued by them against salaries of Government servants, railway employees, etc., will be made as follows:-

(i) When a Government servant or a railway employee, etc., is paid by an office which is situated in a station other than that at which the Court issuing the prohibitory order is located, the salary disbursing office must remit the amount to the Court by postal money order, the postal money order commission being deducted from the amount specified in the attachment order.

(ii) Where a Government servant or railway employee, etc., is paid by an office which is situated in the same station at which the Court issuing the prohibitory order is located, the salary disbursing office must pay the amount to the Court in cash or remit it by postal money order in the manner laid down in (1) above.

(iii) Presiding Officers of Courts shall endorse all prohibitory orders with clear instructions, that is (i) or (ii) above as the case may be, to guide salary disbursing offices how to pay into their Courts the money attached.

19. All payments made from these deposits shall be entered in the "Register of Disbursements" and also in the appropriation column of the "Register of Receipt". Entry of payments.

20. When an application for repayment of deposits is made to the court, the Nazir shall check the claim with reference to the entry in the "Register of Receipts", and if the balance be sufficient, he shall prepare a "Voucher" (Civil Account Code form No. 27 or Punjab stereo A and T form No. 261) and have it signed by the Presiding Officer of the Court concerned. He will then take the payee's receipt, duly stamped according to rule 5, and pay the amount out of his current receipts. The payment will be recorded in the "Register of Disbursements" with full details of the original deposit in columns 1 to 3, and a note of the date and the amount of the repayment will be made, at the same time, in the "Register of Receipts" against the original receipt entry. Mode of cash repayment.

21. All repayments of such deposits to the parties concerned shall invariably be made in the presence of the Presiding Officer who will also be responsible for seeing that the amounts are paid to the proper claimants and that the entries made in respect of these transactions in the appropriate registers are duly supported by his initials (as required by Rule 23) before payment is made. Responsibility of Presiding Officer about repayments.

22. If the balance of the current receipts is not sufficient to meet a demand, repayment shall be made by means of a "Cheque" on the Treasury in favour of the actual claimant, signed by the Presiding Officer, the number and date thereof being endorsed on the "Voucher" (*see* Rule 20) as follows:- Repayments by cheques.

"Paid by cheque No. , dated ."

23. All repayments of deposits, whether made from current receipts or by "cheque" on the Treasury against surplus collections remitted to it, shall be recorded in the "Register of Receipts" and the "Register of Disbursements" as in rule 20 under the initials of the Presiding Officer. Repayments to be entered in proper registers.

Instructions to be followed when authorizing payment.

24. When authorizing payment, the Presiding Officer signing the "Voucher" or the "cheque" shall carefully observe the instructions contained in Articles 201, 202, 210, Civil Account Code, Volume I, which are summarized as follows:-

"(a) A person claiming refund of a deposit must produce an order of the court or authority which ordered acceptance of the deposit; this order the Presiding Officer will compare, with the entry in the Register of receipts, and, if the balance be sufficient, he will take the payee's receipt, make payment, and record it at once, under his initials both in the Register of Disbursements from which a daily total is carried to the Cash Book and in that of receipts noting in both also the date and the amount of the repayment".

"(b) In order to avoid the inconvenience and risk which accompany the payment of money upon proceedings recorded in the vernacular languages, and to ensure caution in the issue of such orders, the Government have directed that every order issued by a Court or office for the payment of money from a Government Treasury shall be in English, unless the Presiding Officer is unacquainted with that language. If the disbursing officer does not understand English, and the officer ordering the payment does, the order for payment shall be both in the vernacular and in English".

He will further see that each application for repayment is duly cancelled over his signature so that a second payment cannot be made.

Voucher for cash payment to be stamped "paid".

25. All the vouchers paid by the Nazir out of receipts shall be stamped "paid" by himself.

Repayment by transfer credit.

26. In the case of repayments to be made by transfer credit to Government account, cheques will be prepared in the manner laid down in Rule 22. Such cheques will be drawn in favour of self and endorsed-

"Received payment by transfer credit to______________." This is as laid down in note 2 to

FORM NO. 1
(vide Rule 3.)

NOTE BOOK OF ____________________ EXECUTION BAILIFF.
COURT OF ____________________ FOR THE MONTH OF ____________ 19 .

Monthly Serial No.	Date of issue of warrant	Serial No. in the Register of processes received and disposed of by the local agent.	Name of the Court issuing the warrant.	Name of parties	Name of judgment-debtor.	Date of next hearing in the case	Date of return of warrant fixed by the Nazir.	Nature of execution, i.e., attachment of property or arrest of the debtor.	Date of execution	Amount and/or No. of articles received.	Date of credit of realization.	Amount.	Particulars whether execution was carried out or not.	Acknowledgement of Nazir with date and No. of entry in Register of Receipts	REMARKS
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16

FORM NO. 2
(vide Rule 13.)

REGISTER OF RECEIPTS OF CIVIL COURT DEPOSITS OF THE COURT OF ______.
(CASH SYSTEM)

Date of receipt.	Number of Deposit Book No. and Receipt No. of receipt in Form 6.	No. of file of the case in which deposited.	Name of the Court and of the parties with name and tahsil No. of the village in which the file is to be kept.	From whom received.	Nature of deposit.	Amount of cash deposit.	Initials of presiding officer.	Daily total.	*Detail of payments.*								Initials of presiding officer.	Total of payments.	Lapsed and credited to Government.	REMARKS
									Date.	Amount of each payment.	Initials of presiding officer.	Date.	Amount of each payment.	Initials of presiding officer.	Date.	Amount of each payment.				
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
						Rs.				Rs.			Rs.			Rs.				

FORM NO. 3
(vide Rule 43.)
REGISTER OF RECEIPTS OF CIVIL COURT
DEPOSITS OF THE COURT OF __________.
(VOUCHER SYSTEM)

1	Date of receipt.		
2	No. of each deposit.		
3	No. of file of the case in which deposited.		
4	Name of the Court and of the parties with name and tahsil No. of the village in which the file is to be kept.		
5	From whom received.		
6	Nature of deposit.		
7	Amount of each deposit		Rs.
8	No. and date of deposit in the treasury.		
9	Initials of presiding officer.		
10	Daily total.		Rs.
11	*Detail of payments.*	No. and date of the Treasury Voucher.	
12		Amount of each payment.	
13		Initials of presiding officer.	
14		Date.	
15		Amount of each payment.	
16		Initials of presiding officer.	
17		Total of repayments. Date.	
18		Lapsed and credited to Government. Amount of each repayment.	
19	Initials of presiding officer.		
20	Total of payments.		
21	Lapsed and credited to Government.		
22	REMARKS		

FORM NO. 4

(vide Rule 13.)

REGISTER OF DISBURSEMENTS OF CIVIL COURT

DEPOSITS OF THE COURT OF ______________.

(CASH SYSTEM)

Details of original deposit			Date of present payment	Yearly Serial No.	To whom paid	Amount paid		Initials of		Daily Total Carried to Cash Book		Payee's receipt
Date of receipt	No. as per Register of Receipts	Amount of balance of deposit				Cash	Treasury	Process-serving agent	Presiding officer	Cash	Treasury	
1	2	3	4	5	6	7		8	9	10		11
		Rs.				Rs.	Rs.			Rs.	Rs.	

FORM NO. 5

(*Vide* Rule 13)

CASH BOOK OF CIVIL COURT

DEPOSITS SHOWING CASH BALANCE IN THE HAND OF THE NAZIR OF THE COURT OF________________FOR THE MONTH OF ___________________

(CASH SYSTEM)

1	2	3	4	5	6	7	8	9	10
	RECEIPTS			PAYMENTS			BALANCE		
Date	Particulars	Cash	Treasury	Particulars	Cash	Treasury	Cash (3-6)	Treasury (4-7)	Initials of the Officer-in-charge
1-4-37	Opening balance (1) Daily total as per register of receipts	Rs. .. 200	Rs. 4,000 ..	(1) Daily total as per register of disbursements.	Rs. 150	Rs. ..	Rs.	Rs.	
2-4-37	Total (1) Daily total as per register of receipts (2) From Cash ..	200 500 ..	4,000 .. 250	(2) Daily total as per register of disbursements. (2) Paid into treasury	150 100 250	.. .. ..	50	4,000	
3-4-37	Total (1) Daily total as per register of receipts (2) Withdraw from treasury Total	700 280 150 1,130	4,250 4,250	(1) Daily total as per register of disbursements (2) For cash	500 530 .. 1,030	.. .. 150 150	200 100	4,250 4,100	

FORM NO. 6
(*Vide* Rule 14)

RECEIPT FOR DEPOSIT IN CIVIL COURT DEPOSITS (CASH SYSTEM) OF THE COURT OF________________

COUNTERFOIL OF RECEIPT.

Book No.______________________________

Receipt No.____________________________

Date	
No. of entry in register or receipts ..	
Name of court	
Name of depositor	
Amount deposited	
Signature of the Presiding Officer ..	

RECEIPT FOR DEPOSIT IN CIVIL COURT DEPOSITS (CASH SYSTEM) OF THE COURT OF________________

Book No.______________________________

Receipt No.____________________________

Date	
No. of entry in Register or Receipts ..	
Name of Court	
Name of depositor	
Amount deposited	
Signature of the Presiding officer.. ..	

FORM NO. 7
(*Vide* Rule 20)
VOUCHER IN FORM NO. 27 CIVIL ACCOUNT CODE, VOLUME
(CASH AND VOUCHER SYSTEMS
Stereo A. and T./Deposits No. 261
___________________Treasury Month of _______________ 19 .

<table>
<tr><td colspan="4">Voucher No.________________
Head of Service Chargeable__________ Deposits _____________List of payments</td></tr>
<tr><td>Original Number__________</td><td>Date of Deposti__________</td><td>Name of Depositor ______</td><td>Amount originally deposited Rupees_______</td></tr>
<tr><td colspan="2">Rupees
Examined and entered
____
Accountant, Treasury.
Treasury Officer</td><td colspan="2">Received this___________day of ___________ 19 , the sum of Rupees __________ being the amount payable to _________________________________ on account of the Deposit described above.
Claimant's Signature
Stamp, if required.
Passed for payment Rs.
Judge, Magistrate or Collector</td></tr>
</table>

FORM NO. 8

(Vide Rule 22)

CHEQUE
(CASH SYSTEM)

(Books of personal Ledger Account cheques as supplied by Treasury Officer)

FORM NO. 9

(*Vide* Rule 27)

CHALLAN

(Cash and Voucher Systems

Stereo A. and T.T.M. No. 192

Challan of cash paid into ________________ Treasury on ______________ 19 .

Name of person paying the money.	Amount paid (in words and figures
On account of Name of person actually tendering the cash:	

Head of Account. Date

Received from

Rupees

To the credit of Government as stated therein

Treasurer Accountant Treasury officer

FORM NO. 10

(*Vide* Rule 31)

REGISTER OF UNCASHED CHEQUES OF CIVIL COURT DEPOSITS ON THE TREASURY OF THE COURT OF------

(CASH SYSTEM)

	Number of cheque add No. in Column 5 of Register of Disbursements	Previous Balance	Issued during month	Cashed by Treasury	Balance	REMARKS
		Rs. P.	Rs. P.	Rs. P.	Rs. P.	

Note.-"Date of encashment" should be entered in the column for "Remarks"

FORM NO. 11
(Vide Rule 31)
TREASURY PASS BOOK FOR CIVIL COURT DEPOSITS OF THE COURT OF______________

(Cash System)
(Form 65, Civil Account Code, Volume II)

RECEIPTS				
Month	Date	Particulars of Receipts	Amount	Initials of Treasury Officer

Payments					
Month	Date	PARTICULARS OF CHEQUE CASHED		Amount	Initials of Treasury Officer
		Number of cheque	Number of Book		

FORM NO. 12
(Vide Rule 36)
FORM 28, CIVIL ACCOUNT CODE, VOLUME I
(PUNJAB FORM STEREO A. & T. 4)
(Cash System)

EXTRACT REGISTER OF RECEIPTS OF ---------------------- DEPOSITS AT THE ----------------------------TREASURY IN THE MONTH OF ----------------------19-------

Date	Number of each deposit	From whom received	Nature of each deposit	Amount of each deposit	FOR USE IN THE ACCOUNTANT GENERAL'S OFFICE				
					In the year of receipt	*In the first year following the year of receipt*	Total repayment on each deposit	Balance of each deposit	
					12 monthly columns	12 monthly columns		Lapsed	Transferred to clearance register
				Rs. P.			Rs. P.	Rs. P.	Rs. P.

FORM NO. 13

(Vide Rule 39).

CLEARANCE REGISTER

(CASH SYSTEM)

The form is as of form 28, Civil Account Code, Volume I, but with the title changed. It is printed as Punjab Form Stereo A. and T. 260.

FORM NO. 15

(Vide Rule 38.)

FORM NO. 29, CIVIL ACCOUNT CODE, VOLUME I

(CASH SYSTEM)

STEREO A. AND T.C.A.C. NO. 5

STATEMENT OF LAPSED (CIVIL, CRIMINAL COURTS OR REVENUE) DEPOSITS OF THE ....TREASURY FOR THE YEAR 19 .

PARTICULARS OF DEPOSITS			FOR USE IN ACCOUNTANT-GENERAL'S OFFICE				Remarks
Date	No.	Balance Lapsed	Refund order		Amount of refund sanctioned	Initials	
			No.	Date			
Margin for filing		Rs. P.			Rs. P.		
Total carried over							

________________________Court.)
) Presiding Officer of the Court
________________________Station.)

Treasury Officer.

Dated ______________________

FORM NO. 16

FORM NO. 30, CIVIL ACCOUNT CODE, VOLUME I
(CASH AND VOUCHER SYSTEMS)
STEREO A. AND T. NO. 6.
Voucher No.
Refund of Lapsed Deposits.

To

The Accountant-General,________________________

SIR,

The following refunds of lapsed deposits, aggregating Rs. (in words) __________have been claimed by__________, of whose identity and title to the money I have satisfied myself. I request your sanction to the refund.

Class of deposit	Particulars of original deposit		Balance credited to Government	Date of Lapsed Statement	Amount claimed	Remarks
			Rs. P.		Rs. P.	

__________________DISTRICT.) *Judge, Magistrate or other Officer.*
)
The ______________________19 .) Designation of other officer, ____________

Accountant-General's Officer No.__________________________ dated _________

Sanctioned ____.

Assistant Accounts Officer, . Punjab
Assistant Accountant-General,

RECEIVED PAYMENT.

Claimant.

Pay Rupees ( )____only.

The ____________________19 .

Examined. Accountant, Treasury Officer.

The Signature of the claimant should be obtained on this form and the form should be returned as a voucher in support of the debit.

For use in Accountant-General's Serial No. in No. Book.

Admitted ________________.	Noted in the Number Book
Objected to ______________.	of the Orders.
Audr. *Examr.* *Supdt.*	*Supdt.*

FORM NO. 17

(*Vide Rule 10)*

INTERMEDIATE REGISTER OF MONEY ORDERS, ETC, RECEIVED IN THE COURT OF ____________________FOR THE MONTH OF ________________________19 .

Serial No.	RRECEIPT						DISPOSAL			REMARKS
	Date of receipt	*If Money Order-* *(i)* Name of remitter. *(ii)* No. and date of money order and *(iii)* Post Office of issue.	*If Cheque-* *(i)* Name of drawer *(ii)* No. and date of cheque. *(iii)* What bank and *(iv)* No. and date of covering letter.	*If other valuables-* *(i)* Specify them. *(ii)* From whom received. *(iii)* Particulars of case	Amount of money order or cheque	Initials	Serial No. and date in Register of Receipts S.P.A/C.C.D.	Mode of the other disposal	Signature of Presiding Officer	

FORM NO. 18

RECEIPT BOOKS
STOCK BOOK OF FORMS OF ________________ IN THE COURT OF ____________________
CHEQUE BOOKS

Receipt into Stock						Issue from Stock						Balance of receipt or issue	Initials of Presiding Officer.	No. and date of acknowledgement	Remarks
		Number of		*Serial Nos. of forms*				*Number of*		*Serial Nos. of forms*					
Date	From whom	Books	Forms	From	To	Date	To whom	Books	Forms	From	To				

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Notification

The 16th April, 2012

Chapter 9 of Rules and Orders of Punjab and Haryana High Court, Volume-II

No. 4 Rules/II.D4.—In exercise of the powers conferred under Section 39 of the Gram Nyayalayas Act, 2008 (No. 4 of 2009), the Punjab and Haryana High Court, Chandigarh hereby makes the following Rules for the State of Punjab :—

"1. **Short title and commencement.**—(1) These rules may be called the Punjab Gram Nyayalayas Rules, 2010.

(2) The Rules shall come in to force on the date of their publication in the Official Gazette.

2. **Definition.**—In these rules, unless the context otherwise requires,—

(a) "Act" means the Gram Nayayalayas Act, 2008 (No. 4 of 2009).

(b) "Rules" means the rules made under the Act.

(c) "Nyayadhikari" means the Presiding Officer of Gram Nyayalayas.

(d) Words and expressions used in these rules and not defined herein but defined in the Act shall have the same meaning assigned to them in the Act.

3. **Seal of Gram Nyayalayas.**—Every Gram Nyayalaya shall have a seal with the dimension as that of seal of the Judicial Magistrate First Class with State Emblem with inscription in the outer margin of the seal as "**Seal of Nyayadhikari, Gram Nyayalaya ______________ (seal of Nyayalaya to be filled in)**".

4. **Nyayadhikari.**—(a) Nyayadhikari of Gram Nyayalaya shall be appointed from amongst the members of the State Judicial Service.

(b) The Nyayadhikari of Gram Nyayalaya shall be entitled to residential accommodation as per his entitlement in service at nearest district or sub-divisional headquarter,

(c) He shall be provided with vehicle with fuel to be used for official purposes including commuting from residence to work place.

5. **Court hours and decorum.**—(i) Gram Nyayalaya shall observe Court working hours as observed by the Judicial courts.

(ii) Provisions of Rule 30 of 'Canons of Judicial Ethics' of Rules and Orders of Punjab and Haryana High Court, Volume-4 shall be applicable to Nyayadhikari, Advocates and Lawyers.

6. **Procedure for Institution of Application or Complaint.**—Any application in prescribed proforma as per forms provided in Appendix 'A' of first schedule of CPC or complaint shall be filed in the Gram Nyayalaya on every working day during court hours. Application or complaint shall be scrutinized and if found proper, the same shall be registered and be assigned a unique number.

7. **Nomenclatures to be given to the Applications/Complaints.**—The nomenclatures as mentioned in **Appendix 'A'** to the Rules shall be employed for different types of Applications/Complaints filed in the Gram Nyayalaya.

8. **Court Fee.**—Every application or complaint shall be accompanied by a Court fee stamp of Rs. 50. In respect of all other matters, Court Fee as per the provisions of Court Fee Act shall be payable.

9. **Issue of Notice in Application.**—(a) When an Application has duly been filed, a Notice on prescribed proforma as provided in CPC may be issued to the Opposite Party to appear and answer the claim and to file the written statement of his defence, if any, within **thirty days** from the date of service of notice on that Opposite Party :

Provided that where the opposite party fails to file the written statement within the said period of **Thirty days**, he shall be allowed to file the same on such other day as may be specified by the Gram Nyayalaya, for reasons to be recorded in writing, but which shall not be later than 45 days from the date of service.

(b) The Applicant(s) shall deposit one time process fee of Rs. 50 in each case alongwith copies of Application equal to the number of defendants/ respondents.

(c) Every notice shall be accompanied by a copy of the Application.

(d) Notices shall be served through process serving Agency of Court of Civil Judge (Sr. Division) situated in district within the jurisdiction of which notices are to be served or through registered post or through courier service providers, approved by the High Court, and will be returned served or unserved alongwith affidavit of person who effected the service.

10. **Issue of Summons in Complaint Matters.**—(i) Summons on proforma as provided in second schedule of Cr.P.C. shall be in writing, in duplicate, signed by the Nyayadhikari of such Gram Nyayalaya and shall bear the seal of the Gram Nyayalaya.

(ii) The Complainant(s) shall deposit one time process fee of Rs. 50 in each case alongwith copies of Complaint and list of witnesses equal to the number of accused to be served.

12. **Certified Copies.**—(a) A copy of the final order shall be supplied to the parties free of cost.

(b) An extra certified copy shall be issued on a payment of fee of Rs. 20.

(c) A certified copy of an order shall clearly specify the date of order, date when the copy was prepared and date of issuance thereof.

(d) A certified copy of any document on the file of the Gram Nyayalaya, shall be issued on payment of fee of twenty rupees per copy. Provided that if any such document exceeds 5 pages, an extra amount of one rupee per page shall be payable.

(e) Certified copy of any miscellaneous order passed by the Gram Nyayalaya shall be supplied on payment of fee of Rs. 5 per copy.

(f) All other matters with regard to supplying certified copies shall be dealt with in accordance with Rules contained in Chapter 17 of Rules and Orders of Punjab and Haryana High Court, Volume-4.

13. **Conciliation :**

(i) **Appointment of Conciliator.**—The Gram Nyayalayas shall, in the first instance appoint a Conciliator out of panel to assist, pursuade and conciliate the disputing parties in arriving at a settlement in respect of the subject matter of the application/complaint :

Provided that the Nyayadhikari may appoint a person a conciliator who is not in the panel of Conciliators where both the parties to dispute propose the name of such person in writing.

(ii) The Conciliators will follow the procedure as prescribed in the Mediation and Conciliation Rules contained in Sub-part II of Part O, Chapter I, Volume-I of the Rules and Orders of Punjab and Haryana High Court.

(iii) **Panel of Conciliators.**—(1) Every Gram Nyayalaya shall have panel of 10 Conciliators prepared by the District Judge in consultation with the District Magistrate.

(2) Such panel shall be reviewed periodically. The maximum tenure of a Conciliator will be 2 years, extendable by another term of two years.

(3) Panel shall consist of atleast one woman, one member of Panchayat and one person belonging to SC/BC Category.

(iv) **Qualification/Persons to be empanelled as Conciliator.**—The persons having following qualifications shall be eligible to be empanelled as Conciliators :—

(a) A person should be of minimum 35 years of age ;

(b) A person should be a graduate or retired teacher from a Government recognized educational institution.

(c) He should be preferably from the local area of the Gram Nyayalaya ;

(d) any person who has been adjudged insolvent ; or

against whom criminal charges involving moral turpitude have been framed by a court or convicted of such offence ; or

against whom disciplinary proceedings have been initiated by the competent authorities or who has been punished in such proceedings ; or

is having any pending litigation in Gram Nyayalaya or any other Court of his own or any of his family member such as mother, father, brother, sister, son, daughter, wife etc. or

Such other categories of persons as may be notified by the District Judge shall not be empanelled as Conciliators.

14. **Inspection of Gram Nyayalaya.**—Every Gram Nyayalaya shall be inspected preferably twice a year by the Chief Judicial Magistrate. He shall issue such instructions as he may deem necessary for proper functioning of Gram Nyayalaya and shall submit a report to the High Court through proper channel.

15. **Administrative Judge.**—Every Gram Nyayalaya in Sessions Division shall be inspected by the Administrative Judge of the High Court for the said Sessions Division.

16. **Publication.**—These Rules shall be published in the Government Gazette of the State of Punjab."

APPENDIX 'A'

Sr. No.	Nature of Proceedings	Abbreviated Form
1.	**Offences under the Indian Penal Code (45 of 1860) ETC.**	
	(i) Offences not punishable with death, imprisonment for life or imprisonment for a term exceeding two years;	Challan (IPC) Comp (IPC)
	(ii) theft, under section 379, Section 380 or Section 381 of the Indian Penal Code (45 of 1860), where the value of the property stolen does not exceed rupees twenty thousand;	
	(iii) receiving or retaining stolen property under section 411 of the Indian Penal Code (45 of 1860), where the value of the property does not exceed rupees twenty thousand;	
	(iv) assisting in the concealment of disposal of stolen property under section 414 of the Indian Penal Code (45 of 1860), where the value of such property does not exceed rupees twenty thousand;	
	(v) offences under Sections 454 and 456 of the Indian Penal Code (45 of 1860);	
	(vi) insult with intent to provoke a breach of the peace under section 504, and criminal intimidation, punishable with imprisonment for a term which may extend to two years, or with fine, or with both, under section 506 of the Indian Penal Code (45 of 1860);	
	(vii) abetment of any of the foregoing offences;	
	(viii) an attempt to commit any of the following offences, when such attempt is an offence.	
2.	**Offences and relief under the other Central Acts**	
	(i) any offence constituted by an act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871 (1 of 1871) ;	(i) Comp.(CTA)

Sr. No.	Nature of Proceedings	Abbreviated Form
	(ii) the Payment of Wages Act, 1936 (4 of 1936) ;	(ii) Comp.(PWA)
	(iii) the Minimum Wages Act, 1948 (11 of 1948) ;	(iii) Comp.(MWA)
	(iv) the Protection of Civil Rights Act, 1955 (22 of 1955) ;	(iv) Comp.(PCR)
	(v) order for maintenance of wives, children and parents under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) ;	(v) Comp.Misc (Cr.P.C.)
	(vi) the Bonded Labour System (Abolition) Act, 1976 (19 of 1976) ;	(vi) Comp.(BLA)
	(vii) the Equal Remuneration Act, 1976 (25 of 1976) ;	(vii) Comp.(ERA)
	(viii) the Protection of Women from Domestic Violence Act, 2005 (43 of 2005)	(viii) Comp.(DVA)
3.	**Suits of a Civil Nature within the jurisdiction of Gram Nayalayas**	
	(i) **Civil Disputes**	
	(a) right to purchase of property ;	(a) CD (RPP)
	(b) use of common pasture ;	(b) CD (UCP)
	(c) regulation and timing of taking water from irrigation channel	(c) CD (WIC)
	(ii) **Property Dispute**	
	(a) village and farm houses (Possession) ;	(a) PD (Possession)
	(b) water channels ;	(b) PD (WC)
	(c) right to draw water from a well or tube well	(c) PD (RDW)
	(iii) **Other Disputes**	
	(a) claims under the Payment of Wages Act, 1936 (4 of 1936);	(a) Civil PWA

Sr. No.	Nature of Proceedings	Abbreviated Form
	(b) claims under the Minimum Wages Act, 1948 (11 of 1948);	(b) Civil MWA
	(c) money suits either arising from trade transaction or money lending;	(c) Money suit
	(d) disputes arising out of the partnership in cultivation of land;	(d) Cultivation Dispute
	(e) disputes as to the use of forest produce by inhabitants of Gram Panchayats.	(e) Forest Produce Disputes

By Order of Hon'ble the Chief Justice and Judges.

VIRINDER AGGARWAL,

Registrar Rules.

1377 LR(P)—Govt. Press, U.T., Chd.

PART - IV

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Notification

The 2nd May, 2012

CHAPTER 9 OF RULES AND ORDERS OF PUNJAB & HARYANA HIGH COURT, VOLUME-II

No. 5 Rules/II.D4 dated 16/4/2012.— In exercise of the powers conferred under Section 39 of the Gram Nyayalayas Act, 2008 (No. 4 of 2009), the Punjab and Haryana High Court, Chandigarh hereby makes the following Rules for the State of Haryana :—

***1. Short, title and commencement.** — (1) These rules may be called the Haryana Gram Nyayalayas Rules, 2010.

(2) The Rules shall come in to force on the date of their publication in the Official Gazette.

2. Definition. — In these rules, unless the context otherwise requires, —

(a) "Act" means the Gram Nyayalayas Act, 2008 (No. 4 of 2009).

(b) "Rules" means the rules made under the Act.

(c) "Nyayadhikari" means the Presiding Officer of Gram Nyayalayas.

(d) Words and expressions used in these rules and not defined herein but defined in the Act shall have the same meaning assigned to them in the Act.

3. Seal of Gram Nyayalayas.— Every Gram Nyayalaya shall have a seal with the dimension as that of seal of the Judicial Magistrate First Class with State Emblem with inscription in the outer margin of the seal as "**Seal of Nyayadhikari, Gram Nyayalaya ____________ (seal of Nayalaya to be filled in)**".

4. Nyayadhikari.— (a) Nyayadhikari of Gram Nyayalaya shall be appointed from amongst the members of the State Judicial Service.

(b) The Nyayadhikari of Gram Nyayalaya shall be entitled to residential accommodation as per his entitlement in service at nearest district or sub divisional headquarter.

(c) He shall be provided with vehicle with fuel to be used for official purposes including commuting from residence to work place.

5. Court hours and decorum .— (i) Gram Nyayalaya shall observe Court working hours as observed by the Judicial Courts.

(ii) Provisions of Rule 30 of 'Canons of Judicial Ethics' of Rules & Orders of Punjab and Haryana High Court, Volume-4 shall be applicable to Nyayadhikari, Advocates and Lawyers.

6. **Procedure for Institution of Application or Complaint .**— Any application in prescribed proforma as per forms provided in Appendex 'A' of first schedule of CPC or complaint shall be filed in the Gram Nyayalaya on every working day during court hours. Application or complaint shall be scrutinized and if found proper, the same shall be registered and be assigned a unique number.

7. **Nomenclatures to be given to the Applications/Complaints .**— The nomenclatures as mentioned in **Appendix 'A'** to the Rules shall be employed for different types of Applications/Complaints filed in the Gram Nyayalaya.

8. **Court Fee.**— Every application or complaint shall be accompanied by a Court Fee stamp of Rs. 50/-. In respect of all other matters, Court Fee as per the provisions of Court Fee Act shall be payable.

9. **Issue of Notice in Application.**— (a) When an Application has duly been filed, a Notice on prescribed proforma as provided in CPC may be issued to the Opposite Party to appear and answer the claim and to file the written statement of his defence, if any, within **Thirty days** from the date of service of notice on that Opposite Party :

Provided that where the opposite party fails to file the written statement within the said period of **Thirty days**, he shall be allowed to file the same on such other day as may be specified by the Gram Nyayalaya, for reasons to be recorded in writing, but which shall not be later than 45 days from the date of service.

(b) The Applicant(s) shall deposit one time process fee of Rs. 50/- in each case alongwith copies of Application equal to the number of defendants/respondents.

(c) Every notice shall be accompanied by a copy of the Application.

(d) Notices shall be served through process serving Agency of Court of Civil Judge (Sr. Division) situated in district within the jurisdiction of which notices are to be served or through registered post or through courier service providers, approved by the High Court and will be returned served or unserved alongwith affidavit of person who effected the service.

10. **Issue of Summons in Complaint Matters .**— (i) Summons on proforma as provided in second schedule of CrPC shall be in writing, in duplicate, signed by the Nyayadhikari of such Gram Nyayalaya and shall bear the seal of the Gram Nyayalaya.

(ii) The Complainant(s) shall deposit one time process fee of Rs. 50/- in each case alongwith copies of complaint and list of witnesses equal to the number of accused to be served.

12. **Certified Copies.**— (a) A copy of the final order shall be supplied to the parties free of cost.

(b) An extra certified copy shall be issued on a payment of fee of Rs. 20/-.

(c) A certified copy of an order shall clearly specify the date of order, date when the copy was prepared and date of issuance thereof.

(d) A certified copy of any document on the file of the Gram Nyayalaya, shall be issued on payment of fee of twenty rupees per copy. Provided that if any such document exceeds 5 pages, an extra amount of one rupee per page shall be payable.

(e) Certified copy of any miscellaneous order passed by the Gram Nyayalaya shall be supplied on payment of fee of Rs. 5/- per copy.

(f) All other matters with regard to supplying certified copies shall be dealt with in accordance with Rules contained in Chapter 17 of Rules and Orders of Punjab and Haryana High Court, Volume-I.

13. Conciliation :

(i) **Appointment of Conciliator** .—The Gram Nyayalayas shall, in the first instance appoint a Conciliator out of panel to assist, persuade and conciliate the disputing parties in arriving at a settlement in respect of the subject matter of the application/complaint :

Provided that the Nyayadhikari may appoint a person a conciliator who is not in the panel of Conciliators where both the parties to dispute propose the name of such person in writing.

(ii) The Conciliators will follow the procedure as prescribed in the Mediation and Conciliation Rules contained in Sub-part-II of Part O Chapter 1, Volume-I of the Rules & Orders of Punjab & Haryana High Court.

(iii) Panel of Conciliators.—(1) Every Gram Nyayalaya shall have panel of 10 Conciliators prepared by the District Judge in consultation with the District Magistrate.

(2) Such panel shall be reviewed periodically. The maximum tenure of a Conciliator will be 2 years, extendable by another term of two years.

(3) Panel shall consist of atleast one woman, one member of Panchayat and one person belonging to SC/BC category.

(iv) Qualification/persons to be empanelled as Conciliator.—The persons having following qualifications shall be eligible to be empanelled as Conciliators :—

(a) A person should be of minimum 35 years of age;

(b) A person should be a graduate or retired teacher from a Government recognized Educational Institution;

(c) He should be preferably from the local area of the Gram Nyayalaya;

(d) Any person who has been adjudged insolvent; or

Against whom criminal charges involving moral turpitude have been framed by a court or convicted of such offence; or

Against whom disciplinary proceedings have been initiated by the competent authorities or who has been punished in such proceedings; or

Is having any pending litigation in Gram Nyayalaya or any other Court of his own or any of his family member such as mother, father, brother, sister, son, daughter, wife etc.; or

Such other categories of persons as may be notified by the District Judge shall not be empanelled as Conciliators.

14. Inspection of Gram Nyayalaya.— Every Gram Nyayalaya shall be inspected preferably twice a year by the Chief Judicial Magistrate. He shall issue such instructions as he may deem necessary for proper functioning of Gram Nyayalaya and shall submit a report to the High Court through proper channel.

15. Administrative Judge.—Every Gram Nyayalaya in Sessions Division shall be inspected by the Administrative Judge of the High Court for the said Sessions Division.

16. Publication.— These Rules shall be published in the Government Gazette of the State of Haryana."

APPENDIX 'A'

Sr. No.	Nature of Proceedings	Abbreviated Form
1.	**OFFENCES UNDER THE INDIAN PENAL CODE (45 OF 1860) ETC.**	
	(i) Offences not punishable with death, imprisonment for life or imprisonment for a term exceeding two years;	Challan (IPC)/ Comp. (IPC)
	(ii) Theft, under section 379, section 380 or section 381 of the Indian Penal Code (45 of 1860), where the value of the property stolen does not exceed rupees twenty thousand;	
	(iii) Receiving or retaining stolen property, under section 411 of the Indian Penal Code (45 of 1860), where the value of the property does not exceed rupees twenty thousand;	
	(iv) Assisting in the concealment or disposal of stolen property, under section 414 of the Indian Penal Code (45 of 1860), where the value of such property does not exceed rupees twenty thousand;	
	(v) Offences under sections 454 and 456 of the Indian Penal Code (45 of 1860);	
	(vi) Insult with intent to provoke a breach of the peace, under section 504, and criminal intimidation, punishable with imprisonment for a term which may extend to two years, or with fine, or with both, under section 506 of the Indian Penal Code (45 of 1860);	
	(vii) Abetment of any of the foregoing offences;	
	(viii) An attempt to commit any of the following offences, when such attempt is an offence.	
2.	**OFFENCES AND RELIEF UNDER THE OTHER CENTRAL ACTS**	
	(i) Any offence constituted by an act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871 (1 of 1871);	(i) Comp. (CTA)
	(ii) The Payment of Wages Act, 1936 (4 of 1936);	(ii) Comp. (PWA)
	(iii) The Minimum Wages Act, 1948 (11 of 1948);	(iii) Comp. (MWA)
	(iv) The Protection of Civil Rights Act, 1955 (22 of 1955).	(iv) Comp. (PCR)

	(v) Order for maintenance of wives, children and parents under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974);	(v) Comp. Misc. (Cr. P.C.)
	(vi) The Bonded Labour System (Abolition) Act, 1976 (19 of 1976);	(vi) Comp. (BLA)
	(vii) The Equal Remuneration Act, 1976 (25 of 1976);	(vii) Comp. (ERA)
	(viii) The Protection of Women from Domestic Violence Act, 2005 (43 of 2005).	(viii) Comp. (DVA)
3.	**SUITS OF A CIVIL NATURE WITHIN THE JURISDICTION OF GRAM NAYALAYAS**	
	(i) Civil Disputes	
	(a) Right to purchase of property;	(a) CD (RPP)
	(b) Use of common pasture;	(b) CD (UCP)
	(c) Regulation and timing of taking water from irrigation channel	(c) CD (WIC)
	(ii) Property Dispute	
	(a) Village and farm houses (Possession);	(a) PD (Possession)
	(b) Water channels;	(b) PD (WC)
	(c) Right to draw water from a well or tubewell	(c) PD (RDW)
	(iii) Other Disputes	
	(a) Claims under the Payment of Wages Act, 1936 (4 of 1936);	(a) Civil PWA
	(b) Claims under the Minimum Wages Act, 1948 (11 of 1948);	(b) Civil MWA
	(c) Money suits either arising from trade transaction or money lending;	(c) Money suit
	(d) Disputes arising out of the partnership in cultivation of land;	(d) Cultivation Dispute
	(e) Disputes as to the use of forest produce by inhabitants of Gram Panchayats.	(e) Forest Produce Disputes

BY ORDER OF HON'BLE THE CHIEF JUSTICE AND JUDGES.

(Sd.) ...,
Registrar Rules.

49829—I R.—H.G.P., Chd.