**RULES AND ORDERS**

**OF THE**

**LAHORE HIGH COURT, LAHORE**

**VOLUME II**

**INSTRUCTIONS**

**TO**

**CIVIL COURTS**

**SPECIAL JURISDICTION**

**AND ACCOUNTS**

**CONTRIBUTIONS**

**PATRONAGE AND SUPERVISION**

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**Key to the symbols used in Volume II**

\* Substituted vide Lahore High Court Notification No.

333/Rules II, D.4(II), dated 21st September, 1996

\*\* Added vide Lahore High Court Notification *ibid.*

\*\*\* Omitted vide Lahore High Court Notification *ibid.*

# Amended vide Lahore High Court Notification No. 402/Rules

II, D.4 (II) dated 28th September, 1996.

**Note:** For original text and earlier amendments therein, the

previous edition(s) of the Volume may be consulted.

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**Rules and Orders of the**

**Lahore High Court Lahore**

**VOLUME II. – Instructions**

**To Civil Courts**

CHAPTER 1

Rules made by the High Court under the powers conferred by

section 246 of the Indian Companies Act(VII OF 1913), as

amended by Act XXII of 1936…………..\*\*\*[Omitted]

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**CHAPTER 2**

**GUARDIANS AND WARDS**

PART A -- GENERAL

**#[1. Civil Judges empowered to try cases under the Act.-** Section 5 of the Punjab

Family Courts Act, 1964, provides that "Family Courts" shall have exclusive

jurisdiction to entertain, hear and adjudicate upon matters specified in the Schedule.

Items 5 and 6 of the Schedule are "Custody of Children" and "Guardianship". Section

25 of this very Act further provides that a Family Court shall be deemed to be a

"District Court" for the purposes of the Guardians and Wards Act, 1890, as the

"Court" under the Guardians and Wards Act is the "District Court". Section 4-A(1) of

the Guardians and Wards Act, 1890, confers power on the High Court to empower

any officer exercising original Civil Jurisdiction subordinate to a District Court or

authorize any Judge or any District Court to empower any such officer subordinate to

him to dispose of any proceeding 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

the Family Courts presided over by Ist Class Civil Judges to be specially nominated

for each district as permanent record, accounts and special registers are required to

be maintained. All the Senior Civil Judges in the Punjab have been empowered to

dispose of the proceedings under the Guardians and Wards Act, 1890. All the

proceedings under the Guardians and Wards Act are, therefore, to be transferred or

entrusted to the Senior Civil Judges for disposal.]

**2. Minor's interest is the main consideration in appointing a guardian.-** 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.

**3. Discretion of Court in appointing a guardian and issuing notices of**

**application.-** It does not follow that because an application is made for the

appointment of a guardian, one must necessarily be appointed. Every

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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

as to the persons to whom notice should issue [section 11(iv)]. It should also be

noted that in certain cases a guardian cannot be appointed under the Act (section

19).

In appointing a guardian the Courts shall be guided by the provisions of section 17.

**4. Reasons for rejecting an application in limine should be recorded.-** 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.

**5. No need to appoint a guardian of a deceased military servant for purposes of**

**pension.-** 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 facto guardians.

**6. Petty cases-proceedings should terminate on appointment of guardian.-** 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. 5000/- 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.

**7. Form of Bank account for current expenses.-** 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 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, savings account

or fixed deposit account in which it may be

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placed. Such money should be placed in such form of Bank account as will be to the

best interests of the minor.

**8. Restrictions regarding withdrawal from Bank account.-** 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 under the

Guardians and Wards Act 1890. (vide Part B, of this Chapter).

**9. Cases in which money for current expenses are to be deposited in treasury.-**

In cases falling under Rule 14, money required for current expenses must be

deposited in the treasury and the surplus money invested in Government Promissory

Notes as laid down therein.

**10. Pass books, etc., to be kept by guardians.-** All pass books, Government

Promissory Notes and Post Office Saving Schemes relating to Accounts of minors

should be kept by their guardians and inspected by the Court at least once a year.

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PART B -- RULES

*(Rules made by the High Court with the approval of the Provincial Government under*

*the powers conferred by section 50, subsection (1), clause (j), of the Guardians and*

*Wards Act, 1890, for the guidance of Courts in carrying out the provisions of the Act.)*

**1. Application for appointment of a guardian shall be in form A.-** Application 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 variations as the circumstances of each

case may require, be in Form A annexed to these rules.

**2. Notice required by section 11 shall be in form B.-** The notice required by

section 11 of the Act shall be in Form B annexed to these rules.

**3. Form and time for filing statement of property and debts. Further statements**

**when to be put in.-** The 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.

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.

**4. Guardian Certificate-points to be noted thereon.-** 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, 28, 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.

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**5. Bonds required from guardian-their forms and amount.-** Except in cases in

which, for reasons to be recorded in 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 movable

property and three years' profits of the entire estate. Such bonds shall be in Form D

annexed to these rules with such variations or modifications as will suit the

circumstances of each case.

**6. Time to be fixed for filing bonds. Allowances of guardians and other orders.-**

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 bonds.

**7. Entry of application in register No. 2. Cases in which periodical accounts are**

**to be put in to be entered in Register E.-** (i) Every application for appointment of

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

beginning of the register.

**8. Accounts should be scrutinized once a year in cases of large**

**income.-** When the annual income of the ward's estate appears likely to exceed

**\***[Rs.5000/-], 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 scrutinized by the Judge who should

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certify that he has done so and should record such remarks thereon as may be

necessary.

**9. Such cases to be treated as pending-minor to be produced before Court in**

**such cases.-** 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.

**10. Notice of application under sections 28 and 29 to be given to persons**

**affected by it.-** 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.

**11. Annual Inspection of Wards by Courts.-** 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.

**12. Inspection of statements and accounts filed by the guardian.-** 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.

**13. Opening of accounts in approved banks in the name of minors for current**

**expenses. Investment of surplus money in government securities.-** Where the

Court deems it 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 National Bank of Pakistan 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

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any balance, such balance should be invested by the guardian in **#**[(i) Government

securities other than Post Office Savings Schemes; or (ii) Post Office Savings

Schemes; or (iii) Municipal Debentures, Port Trust Bonds and Wapda Bondds; or (iv)

National Savings Certificates], or in any other securities mentioned in clauses (a), (b),

(c) and (d) of section 20 of the Trusts Act, 1882 (II of 1882).

**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. Investment of money in cases of estates managed by Government. Ward's**

**money not to be deposited in the name of Court.-** [(i) 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 National Bank of Pakistan , 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 edition. 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 Judge 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).

**15. Court may pass orders for proper education of the ward in certain cases.-**

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.

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**16. Management of Wards' estates to be noted in annual report.-** The

management of ward's 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.

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**FORM B**

**[In the Court of ]**

**[Court of]**

**In matter of guardianship of ….son… of caste …resident of …Minor**

**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 nature 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 custody 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 or 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 making of the application.

**l** Such other particulars if any, as may be presented, or as the

nature of the application renders it necessary to state.

Signatures of petitioner or of a person The above particulars are true to the knowledge

Duly authorized by him in this behalf. Of the person making them except as to matters

Stated on information and belief, and as to those

Matters he believes them to be true.

I, the guardian proposed in the above application, do herby declare that I am willing to act as such .

Attested by (1) Signature of the person verifying

(2) Signature of the proposed guardian

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**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.

(1)

(2)

(3)

& c.

(1)

(2)

(3)

& c.

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**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 ( )---------------------------------of a guardian to the (2)-------------------

of----------------------------- a minor inhabitant of---------------.

Whereas the petitioner above-named has applied to be ( )-------------------------------------

----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 ( )------------------

-------------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------.

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14

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**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 successors in 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 and 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 firmly by these presents signed by

ourselves and sealed with our respective seals this ----------day of--------------------19---

----.

Whereas by an order of the court of the District Judge of------------------- made on the--

-----------------------day of--------------19----------under section 7 of

16

the Guardians and Wards Act (VIII of 1890) the above-named ( *)*------------------has

subject to his entering into a bond in rupees-------------------with ( *)*-----------

*the same sum*

sureties in------------------ been appointed guardian of the property movable and

*the sum of Rs.*

immovable of ( *)*------------------------------------------------minor son of (3)----------------- and

whereas the said *( )---------------------------------- has agreed to enter into the abovewritten*

*bond and the said ( )*---------------------------- and (*6*)--------------------------- have

agreed to enter into the above-written bond as sureties for the said ( *)*---------------------

. Now the condition of the above-written bond is such that if the said ( *)*-------------------

- 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 ( *)*--------------------- and shall carefully

observe, perform and obey all orders and directions of the said court of the District

Judge of--------------------- touching or concerning the estate and effects of the said

minor and his property and touching and concerning all such moneys and estates as

he the said ( *)*---------------------------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.

Signed and sealed by the above-named.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Seal

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Names of guardian

and sureties

In the presence of Seal\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Seal

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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FORM F

A.- FORM OF APPOINTMENT UNDER SECTION 7 OF ACT NO.VIII OF 1890

(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 sections 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

**26. Removal of the ward from jurisdiction.-** (1) A guardian of the person appointed

or declared by the Court, unless he is the Collector or is a guardian appointed by

will or other instrument, shall not without the leave of

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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 subsection (1) may be special or general,

and may be defined by the order granting it.

**27. Duties of guardian of property.-** A guardian of the property of a ward is bound

to deal therewith as carefully as a man of ordinary prudence 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 realization, protection or benefit of the property.

**28. Powers of testamentary guardian.-** 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.

**29. Limitation of powers of guardian of property appointed or declared by the**

**Court.-** Where a person other than a Collector, or a guardian appointed by will or

other instrument, has been appointed or declared by the Court to be guardian of the

property of a ward, he shall not, without the previous 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

minor.

**32. Variation of power of guardian of property appointed or declared by the**

**Court.-** 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

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may consider to be for the advantage of the ward and consistent with the law to

which the ward is subject.

**33. 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.

**35. Suit against guardian where administration bond was taken.-** 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 to the Judge of the

Court, and shall be entitled to recover thereon, as trustee for the ward, in respect of

any breach thereof.

**36. Suit against guardian where administration bond was not taken.-** 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 his 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

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the ward, such amount as may be found to be payable by the guardian or his

representative, as the case may be.

**39. Removal of guardian.-** 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

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(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.

**44. Penalty for removal of ward from jurisdiction.-** If, for the purpose or with the

effect of preventing the Court from exercising its authority with respect to 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 jail for a term which may extend to six months.

**45. Penalty for contumacy.-** (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, subsection (1), or to do his

utmost to compel the minor to return to the custody of his guardian in obedience to

an order under section 25, subsection (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, subsection (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 jail until he undertakes to produce the minor or cause him to be

produced, or to compel his return, or to deliver the

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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

subsection (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 jail.

**B - CERTIFICATE OF ADMINISTRATION UNDER ACT VIII OF 1890**

I ---------------------, Judge of the ----------------------------- District, do hereby make known

that on the-----------day of-----------------19---------- a certificate of administration 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, under 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 estate; 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 same

person to be administrator of the estate and guardian of the minor.

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PART C -- RULES

*Rules made by the High Court with the approval of the Provincial Government, under*

*the powers conferred by section 50, subsection (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 minors accounts by

Government, the court shall require the guardian to credit one per cent of the estate's

income into the **#**[State Bank of Pakistan or National Bank of Pakistan] under the

head **#**[1200000-Receipts from Civil Administration and other Functions; 1210000-

General Administration Receipts; 1212100-Fiscal Administration Audit; 1212180-

Fiscal Administration Audit-others (58)]. The audit fee thus credited and supported by

the Bank challan shall be incorporated in the accounts of the estates concerned

submitted to the Court annually by the guardian under rule 8 of Chapter 2 B, High

Court Rules and Orders, Volume II. The Court will not pass accounts unless it is

satisfied that the requisite audit fee has been duly credited into the treasury.

(2) The Guardian Judge is authorised 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 Ist April 1944.

(High Court notification No.66-R/XV-B-8, dated the 20th April, 1945).

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**CHAPTER 3**

**INVESTMENT OF TRUST MONEY**

*Rules made by the High Court, under the powers conferred by section 20, clause (f)*

*of the* **#***[...] Trusts Act, 1882, authorising the investment of trust moneys.*

**#[1. Investment of Trust money.--** In accordance with the power contained in clause

(f) of section 20 of the Trust Act, 1882, it is declared that the Trust-property

consisting of money may be invested in any of the following:-

(i) Government Securities other than Post Office Saving Schemes.

(ii) Post Office Savings Schemes.

(iii) Municipal Debentures, Port Trust Bonds; and WAPDA Bonds.

(iv) National Savings Certificates.

(The above Securities are recognized Securities as per Rule 3.6 of the Punjab

Subsidiary Treasury Rules)].

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**CHAPTER 4**

**INSOLVENCY PROCEEDINGS**

Chapters 4 and 5 have been revised by the High Court under section 79 of the

Provincial Insolvency Act and **\***[Article 202 of the Constitution of the Islamic Republic

of Pakistan, 1973], with the previous sanction of the Provincial Government.

(High Court Notification No.242-R//XV-A-17, dated the 25th August, 1938).

PART A -- GENERAL

**1. Courts having jurisdiction to try insolvency cases. Priority should be given**

**to insolvency work.--** Under section 3 of the Provincial Insolvency Act, 1920, all

District Courts are invested with jurisdiction under the Act and the Provincial

Government is also empowered to invest subordinate Courts with concurrent

jurisdiction. In the Punjab, besides Judge of the Court of Small Causes at Lahore

*\*\**\*[...] all Civil Judges of the Ist Class have been invested with such jurisdiction; but

the High Court has directed that only those Civil Judges of the Ist Class should take

cognizance of proceedings under the Act who are expressly permitted by the High

Court to do so.

The Hon'ble Judges have decided that all the work under the Provincial Insolvency

and the Guardian and Wards Acts should be entrusted to a special Ist Class Civil

Judge in all districts with certain exceptions, and it shall be the primary duty of every

Civil Judge so appointed to do insolvency and guardianship cases, original civil

cases being done only if he can spare time.

**2. Forum of Appeal.--** When a subordinate Court exercises concurrent jurisdiction,

appeals from its orders lie to the District Judge (section 75).

**3. Persons by or against whom a petition for insolvency may be filed.--** A

petition for insolvency under the Provincial Insolvency Act may be filed by or against

any individual or firm but not by or against any association,

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corporation or company registered under any enactment for the time being in force.

**4. Procedure to be followed.--** Subject to the special provisions of the Provincial

Insolvency Act, 1920, the Insolvency Courts shall follow the same procedure as they

do in the exercise of original civil jurisdiction (*vide Section 5*).

**5. Process fee chargeable for all notices issued.--** 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.

**6. Notice by registered Post and in the official Gazette.--** 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 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

realizations will not be worth the trouble. It may, of course, be necessary to take

special steps to inform creditors for large amounts or at distant places.

**7. The amount of debt and other conditions requisite for insolvency petition**

**and summary administration.--** Conditions under which a debtor or his creditor can

file a petition are laid down in sections 9 and 10 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, a 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 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.

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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 wider circle of debtors is now entitled to take

advantage of the summary procedure.

**8. Oral examination of the debtor and summary inquiry advised to dismiss**

**dishonest applications.--** 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.

*\****[9. Duty of Insolvency Court to inform proper authority when a Government**

**servant is adjudged insolvent or adjudication is annulled, or is discharged.--**

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. The court should, in forwarding the information, draw

the attention of the Head of Department to the provisions of rule 17 of the West

Pakistan Government Servants Conduct Rules, 1966, which provides, inter alia, that:

"A Government Servant shall avoid habitual indebtedness. If a Government Servant

is adjudged or declared insolvent or if the whole of that portion of his salary which is

liable to attachment, is frequently attached for debt, has been continuously so

attached for a period of two years, or is attached for a sum which, in ordinary

circumstances, he cannot repay within a period of two years, he shall be presumed to

have contravened this rule, unless he proves that the insolvency or indebtedness is

the result of circumstances which, with the exercise of ordinary diligence, he could

not have foreseen or over which he had no control and has not proceeded from

extravagant or dissipated habits."]

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**9-A \*\*\*[Omitted].**

**10. In deciding a debtor's inability to pay his debts, the value of his land should**

**be taken into consideration even though it is not liable to sale.--** Petitions for

insolvency are sometimes put in by members of agricultural tribes who own

considerable land or property by the sale of a portion of which they could easily

discharge their debts. A person of this description cannot obviously be considered to

be "unable to pay his debts," merely because his land is subject to certain restrictions

as regards alienation under the Punjab Alienation of Land Act, 1900.

**11. Period for application for discharge should be fixed in the adjudication**

**order.--** 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).

**12. Official Receivers should normally be appointed Receivers.--** The proper

administration of an insolvent estate depends mainly on the efficiency of the Receiver

and the selection of a suitable Receiver requires, therefore, careful attention of the

Court.

In most districts "Official Receivers" have been appointed and where an Official

Receiver exists, he must be appointed a Receiver in all insolvency proceedings,

unless the Court directs otherwise for special reasons (vide section 57)(For

instructions as regards "Official Receivers", see Chapter 5 of this Volume). In other

cases, the appointment of a Receiver rests with the Court and every endeavour

should be made to select a reliable person able to keep accounts and discharge the

duties of a Receiver under the Act efficiently.

**13. Receivers should give security, amount and form of security bonds.--** 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.

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The forms of security and security bonds should be the same as those prescribed for

Official Receivers in Chapter 5-A of this Volume, the word " General" being

substituted for the word "Official" wherever it occurs in the bond.

**14. Schedule of creditors and other necessary directions to be supplied to**

**Receivers.--** 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.

**15. Schedules of the property and lists of creditors should be checked by a**

**court official before delivering them to the Receiver.--** 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.

**16. Insolvent's property vests in the Receiver including lands of members of**

**agricultural tribes.--** 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.

It has been held by the Lahore High Court that although land belonging to a member

of an agricultural tribe cannot be sold in execution of any decree or order of a Civil

Court, there is no objection to the "temporary alienation" of such land in execution of

decrees or for the discharge of the insolvent's debts (See I.L.R.I Lahore 192, F.B.,

and 2 Lahore 77).

**17. Adjudication order is a bar to fresh suits. Stay of pending suits optional but**

**advisable.--** On the passing of an adjudication order, a creditor cannot institute a suit

against the insolvent for the recovery of his debt,

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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. (Sections 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 the parties to

move the Civil Courts concerned to stay the suits in order that the plaintiff's 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 interests of other

creditors.

**18. Adjudication order no bar to arrest of debtor in execution.--** 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).

**19. Insolvency case should be treated as pending till complete winding up of**

**the debtor's estate.--** Insolvency cases should not be treated as disposed 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 annual 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

solvency case should be adjourned *sine die.*

**20. Duty of insolvent to co-operate with the Receiver.--** 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

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is now required to make a complaint to a Magistrate having jurisdiction. (Section 70).

**21. Power of Insolvency Court to decide all questions of title, etc.--** Section 4 of

the Act is very comprehensive and enables the Insolvency Court to determine all

questions of title on 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

regular suit.

**22. Effect of insolvent not applying for discharge within the fixed period. Object**

**of fixing such time.--** 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.

**23. Period for application for discharge should not ordinarily exceed one year.--**

(i) The period fixed for an application for discharge should not ordinarily be more than

one year in the first instance.

(ii) 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 misunderstanding,

by reason of which creditors, who have compromised with the insolvent, are

being allowed some say in the matter. It cannot be

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too strongly emphasized 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

enures for the benefit of his creditors. In such cases, 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).

**24. Court should carefully study the revised rules given in Chapter 4-B.--** The

revised rules under section 79 of the Provincial Insolvency Act, 1920, framed by the

High Court with the sanction of the Provincial Government should be carefully

studied and followed. (See part B of this Chapter).

The attention of Courts is invited in particular to rule 56 of Chapter 4-B of this Volume

which contains directions to regulate the appointment and procedure of Committees

of Inspection under section 67-A of the Act.

**25. Separate file to be kept for all High Court letters and instructions about**

**insolvency.--** The Insolvency Courts should maintain a separate file for all the letters

and instructions issued by the High Court about insolvency work and Official

Receivers.

**26. Register No. 15 of adjudicated insolvents should be properly maintained.--**

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). 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.

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**27. Causes of delay in disposal of insolvency cases.--** It has been found as a

result of inspections that delay in the 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 processfees

should be put in (vide paragraph 2, Chapter I-K, High Court 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 litem* for the minor respondents.(See Order XXXII, rules 3 and 4 as

amended by the Lahore High Court.)

(viii) Frequent and unnecessary adjournments for compromises which never

materialize.

(ix) Failure to continue the recording of evidence from day to day.

(x) The hearing of Insolvency petitions is sometimes 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.

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(xi) The cases are frequently adjourned for arguments only which should be really

unnecessary except in cases of unusual difficulty.

(xii) *Ex parte* proceedings are taken without a careful examination of the processserver'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 application 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 fretful causes of delay in the disposal of insolvency work should be

checked assiduously.

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PART B -- RULES MADE BY THE HIGH COURT WITH THE SANCTION OF THE

PROVINCIAL GOVERNMENT, UNDER THE POWERS CONFERRED BY SECTION

79 OF THE PROVINCIAL INSOLVENCY ACT, 1920, FOR CARRYING INTO

EFFECT THE PROVISIONS OF THE ACT

**1. Title and application.--** These rules may be cited as The Punjab Provincial

Insolvency Rules and shall apply to all proceedings under the Provincial Insolvency

Act, 1920.

**2. Adaptation of forms prescribed.--** The forms annexed to these rules (printed at

the end of this Chapter), with such variations as circumstances may require, shall be

used for the matters to which they severally relate.

**3. Definition.--** (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 creditor 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.

**4. Registers prescribed for entry of insolvency petitions and other**

**applications.--** (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 a 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 to these rules and all entries

relating to proceedings subsequent to adjudication should be made in this Register.

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(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.

**5. Persons entitled to inspect proceedings and fees for inspection.--** 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 Volume IV, Chapter 16-

Records) provided that no fee shall be charged for inspection made by the Receiver.

NOTICES

**6. Memorandum of publication in Gazette to be kept on record.--** 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 noted in the order sheet.

**7. Manner of notifying dates of hearing.--** (i) Notice of order fixing the date of the

hearing 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).

(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.

**8. Manner of notifying, order of adjudication and orders cancelling**

**adjudication.--** 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

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Government servant, a copy of the order shall be sent to the head of the office in

which he is employed.

The same procedure shall be followed in regard to notice of orders, annulling

adjudication under section 37 (2).

**9. Persons on whom notices under section 33 (3) are to be served.--** 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.

**10. Service of notice under section 50.--** 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.

**11. Service of notice under section 64.--** The notice to be issued by the Receiver

under section 64 before the declaration of a final dividend to the persons whose

claims to be creditors have been notified, but not proved, shall be sent through the

post by registered letter.

**12. Creditors to file address for service.--** (i) 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.

(ii) **Period of applying for discharge should be fixed.--** Whenever an order of

adjudication is made, the Court should, at the same time, fix a date on or before

which the insolvent should apply for discharge.

(iii) **Notice to creditor of application for discharge.--** 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.

**13. Manner of notifying date of hearing of discharge applications.--** Notices of

the date of hearing of applications for discharge under section 41 (1) shall be

published in the official gazette and may also be published in such newspapers as

the Judge may direct, and copies shall be sent by registered post to all creditors,

whether they have proved or not, or served

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on them in the manner prescribed for service of summons, as the Court thinks fit.

**14. Proof of service by Post.--** 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.

**15. Court's discretion to adopt any other mode of service.--** 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.

**16. Notices should be issued or published a fortnight before date.--** 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.

**Note:-** *Mode of recovery of cost of service stamps.--* Whenever notice is permitted by these

rules to be sent by registered post, it should be with acknowledgment due. Service stamps

should invariably be used and the cost thereof recovered from the party concerned or drawn

from the deposit made under paragraph 53 ibid and credited to **\***[1230000-Law & Order

Receipts; 1231000-Justice; 1231800-Others] with full details of the recoveries entered in the

treasury challan or repayment voucher, as the case may be, the cost will also then be

deducted from expenditure under "Contract Contingencies. Postage Stamps."

RECEIVERS AND INTERIM RECEIVERS

**17. Order for appointment of a receiver to be served on the debtor.--** 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 debtor, and

forwarded to the person appointed.

**18. Security to be given by receivers.--** 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 5 of this

Volume).

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**19. Schedule of creditors and all subsequent entries in it to be notified to**

**receivers.--** As soon as the Schedule of creditors has ben 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.

**20. Remuneration of receiver.--** (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 7 1/2 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.

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 proceeding 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 provision 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 paragraphs 12 to 21 of the revised Chapter 5-A, of this

Volume, and the salaries of the sanctioned office

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establishment, rent of building occupied, the cost of stationery and postage and his

travelling allowance etc., shall be charged at the rate of 11/4 per cent.

**21. Remuneration of *Interim* receiver.--** 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 of the estimated value of the property.

**22. Books to be kept by the Receiver. Submission of accounts and their audit.--**

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 form 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 **\***[Director General Audit, Punjab.] The cost of the

audit shall be paid out of the estate at the rate of 11/4 percent of the total

realizations,**\***[and credited in the State Bank of Pakistan or National Bank of Pakistan

under the head 1200000-Receipts from Civil Administration and other Functions;

1210000-General Administration Receipts; 1212100-Fiscal Administration Audit;

1212180-Fiscal Administration Audit and Others(58).]

A receiver appointed under paragraph 20, 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 Chapter 5-B *ibid.*

**23. Transactions of *Interim* proceedings should be kept separate.-**Receivers

should not amalgamate their transactions relating to *interim* proceedings with those

of Insolvent Estates.

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**24. Cash realized by *Interim* Receiver not to be mixed up with Insolvents**

**Estates Fund.--** The cash which is realized or collected by an *Interim* Receiver

should be deposited in the State Bank or National Bank or some other approved

Bank, and not mixed up with the Insolvent Estates Fund of which an account is kept

in the treasury.

**25. Books to be kept by *Interim* Receiver.--** An *Interim* Receiver shall be required

to maintain only the following books and forms:-

(i) A Cash Book in Form No. 15 of Official Receivers.

(ii) A Receipt Book in Form No. 9 of Official Receivers.

(iii) A Property Register in Form No. 16 given at the end of this Chapter.

**26. No audit of *Interim* Receiver's accounts required.--** 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.

**27. Proved creditor entitled to a copy of receiver's accounts.--** 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.

**28. Direction as to safe custody of valuable securities and cash secured by**

**receiver and as to the investment of sums exceeding Rs.500.00.--** 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 23 and paste

a label thereon in form 24 as prescribed for Official Receivers in Chapter 5-B, Rules

and Orders, Volume II) or in the State Bank of Pakistan, or National

Bank of Pakistan 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;

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and, unless it shall appear that a dividend is about to be shortly declared, he shall

obtain the Court's orders as to investment of the same in a suitable manner, e.g., in

securities or as a fixed deposit with a Bank, etc.

**29. Duty of receiver to deliver up assets and books, etc., on being removed, or**

**on annulment of adjudication.--** (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 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 the debtor or to such other person as the Court

may direct.

**30. Receiver shall submit an early report as to conduct of the debtor and other**

**matters.--** (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 in all matters

connected with such proceedings, and in particular such report shall state specifically

whether any of the facts mentioned in each of the clauses of or subsection (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.

**31. Receiver to be deemed an officer of the Court.--** Every Receiver or Interim

Receiver shall be deemed for the purposes of the Act and of these Rules to be an

officer of the Court.

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**PROOF OF DEBTS**

**32. Proof of debt by affidavit.--** A creditor's proof may be by an affidavit in Form No.

6 with such variations as circumstances may require.

**33. Proof of wages of workmen, etc., employed by the debtor.--** 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 proof should be in Form No. 7.

**34. Provisions as to declaration of dividend, notifying its distribution and**

**remission and other connected matters.--** (i) A dividend should be declared in

each estate ordinarily every six months, i.e., on the Ist **\***[October] and the Ist **\***[April],

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 creditors concerned at their expense and risk even when no

formal request has been made by them.

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(vii) Where the assets in the hands of the Official Receiver are too small for

distribution as dividend, e.g., [ten rupees] 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, **\*\***[and deposited in the State Bank of Pakistan or National

Bank of Pakistan under the head - 1200000-Receipts from Civil Administration and

other Functions; 1210000-General Administration Receipts; 1212100-Fiscal

Administration Audit; 1212180-Fiscal Administration Audit-Others(58)].

**PROCEDURE WHERE THE DEBTOR IS A FIRM**

**35. Mode of signing on behalf of the firm.--** 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".

**36. Mode of personal service on a firm.--** 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.

**37. The preceding rule to apply to persons not carrying on business in their**

**own name.--** The provision 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 a name or style other than his own.

**38. 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.--** 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.

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**39. Adjudication order against a debtor firm shall operate against all individual**

**partners.--** 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

partners in that firm.

**40. Each partner shall submit a schedule of his separate affairs.--** In cases of

partnership, the debtors shall submit a schedule of their partnership affairs, and each

debtor shall submit a schedule of his separate affairs.

**41. Composition with joint creditors or a set of separate creditors.--** 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.

**42. Composition with a firm. Annulment of adjudication where a composition or**

**scheme is approved.--** 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 apart 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.

**43. Disposal of assets of separate firm formed by some members of**

**partnership.--** 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 individual 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.

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**SUMMARY ADMINISTRATIONS**

**44. Special procedure in case of summary administration.--** When an estate is

ordered to be administered in a summary manner under section 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 cressexamine

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 in ordinary

cases. These charges should be credited into the treasury under Head **\***[1230000-

Law & Order Receipts; 1231000-Justice; 1231003-Justice, General Fees Fines &

Forfeitures (74)]; except those representing the cost of audit, which should be

credited under the Head [1200000-Receipts from Civil Administration and other

functions; 1210000- General Administration Receipts; 1212100- Fiscal Administration

Audit; 1212180- Fiscal Administration Audit- others (58)];

(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

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Registers as may be required to give a correct view of the administration of the

estate.

**PROSECUTIONS**

**45. Notice shall be given to debtor before lodging a complaint.--** 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**

**46. Application to be heard only after submission of creditors' schedule and**

**receiver's report.--** An application for discharge shall not ordinarily be heard until

after the schedule of creditors has ben framed and the Receiver has submitted his

report (vide Rule 30). 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.

**47. Proved creditors only may oppose discharge.--** Every creditor who has

proved shall be entitled in person or by pleader to appear at the hearing and oppose

the discharge.

**48. In the matter of discharge court shall examine the debtor and may hear the**

**receiver, the debtor and creditors.--** 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.

**49. Procedure where debtor fails to apply for discharge within the fixed period**

**or where no period has been fixed.--** 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.

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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**

**50. Sale by Court and preparation of sale deed where no receiver appointed.--** 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 deed 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.

**51. Sale shall ordinarily be by public auction.--** As a rule property should be sold

by public auction at the spot. Full particulars of the property and encumbrances, 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**

**52. Costs upto order of adjudication shall be borne by petitioner but**

**subsequent costs shall be met out of the estate.--** All proceedings under the Act,

up 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.

**\*[53. Initial deposits by debtor to cover costs. This deposit shall cover postal**

**charges but no process fees.--** A person applying to be adjudicated an

insolvent shall deposit a fee of at least Rs. 200/- 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

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and of all other proceedings under the Act, up to and including the making of an

order of adjudication with the Nazir. Each such deposit shall be treated as Revenue

Deposit and entered in the Register of Receipts.

**Note 1:**- *Process fee shall be paid in Court fee stamps.--* This deposit does not cover

process-fees,which shall be realized as usual, in Court fee stamps according to the

rules.

**Note 2:***- Initial deposit to cover all costs up to order of adjudication.--* This deposit is

meant not only for paying the expenses of publication of certain notices in Official

Gazette, but also to cover the cost of issue of the prescribed notices and all other

proceedings under the Act up to a certain stage. The postage for notices should not,

therefore, be recovered from the parties concerned until the deposit made under this

rule has been exhausted and there is an express order of the Court for the purpose.

**Note 3:***- Disposal of balance of initial deposit.--* The amount of undisbursed balances

of these deposits should be transferred to the insolvent's assets after adjudication. All

expenses incurred after the order of adjudication can be met out of these assets.]

**54. Cost of a debtor about composition or scheme when to be allowed out of**

**estate.--** No cost incurred by a debtor in connection with an application to approve a

composition or scheme shall be allowed out of the estate if the Court refuses to

approve the composition or scheme.

**55. Cases when creditors shall supply funds for administration of the estate--**

**repayment of small funds.--** 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 SECTION 67-A OF THE PROVINCIAL INSOLVENCY ACT

**56. Appointment and procedure of committees of inspection.--** The following

rules have been framed with respect to the appointment and procedure of

Committees of Inspection:-

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(1) *Fixing date of meeting for selection of members.--* 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.

(2) *Number of members.--* A Committee of Inspection shall consist of not more than

five, nor less than three, persons.

(3) *Committee when to meet.--* 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.

(4) *Committee shall act only by majority.--* 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.

(5) *Mode of resignation by a member.--* Any member of the Committee may resign

his office by notice in writing signed by him and delivered to the Official Receiver.

(6) *When a member vacates his office.--* If a member of a Committee becomes

insolvent or is absent from five consecutive meetings of the Committee, his office

shall thereupon become vacant.

(7) *Removal of a member.--* Any member of a Committee may be removed by a

resolution at any meeting of the creditors of which seven days' notice has been given

stating the object of the meeting.

(8) *Filling up a vacancy.--* On a vacancy occurring in the office of a member

of a Committee, the Official Receiver shall forthwith summon a meeting of

the creditors for the purpose of filling the

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vacancy , and the meeting may, by resolution, appoint another creditor or other

person eligible as above to fill the vacancy.

(9) *Committee may act notwithstanding vacancy.--* The continuing members of the

Committee of 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.

(10) *Receiver to obtain orders of Court when he does not agree with the suggestions*

*of the Committee.--* 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 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.

(11) *The committee shall be heard before court passes order in the above case.--*

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.

(12) *Court may call a meeting of the general body of creditors.--* 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.

(13) *Official Receiver shall be Secretary of the Committee.--* The Official Receiver

shall ordinarily act as the Secretary of the Committee and maintain a record of its

proceedings in a bound register.

(14) *Action of a member not to be vitiated by defect in his appointment.—*No

defect or irregularity in the appointment or

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selection of a member of the Committee of Inspection shall vitiate any act done by

him in good faith.

(15) *Receiver shall allow inspection of records to members and give other*

*information and assistance.-- 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.

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**Forms in Insolvency Proceedings**

FORM NO. 1

GENERAL TITLE

IN THE COURT OF--------------------------------------------------------

Insolvency Petition No.------------------of 19-------.

In the matter of--------------------------------------

*Ex parte* (here insert `the Debtor' or`A.B. or creditor' or `the Official Receiver' or `the

Receiver').

FORM NO. 2

DEBTOR'S PETITION

*(Section 13)*

IN THE COURT OF--------------------------------------------------------

Insolvency Petition No.------------------of 19-------.

( 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

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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 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

petition

previous -----------to be adjudged an insolvent.

*petition*s

*Signature.*

*---------------*

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FORM NO. 3

NOTICE TO CREDITORS OF THE DATE OF HEARING

OF AN INSOLVENCY PETITION

*(Section 19)*

IN THE COURT OF--------------------------------------------------------

Insolvency Petition No.------------------of 19-------.

Whereas A.B.-------------has applied to this Court by a petition, dated of----------19------

---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 attended 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.

*within*

It is further ordered that the debtor do apply for his discharge -----------------(\*).

*on or before*

Dated this----------day of---------19-------.

*Judge.*

(\*) Here state the period or the date on or before which the insolvent must apply for

discharge.

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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 a 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.*

*-------------------*

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FORM NO. 6

PROOF OF DEBTS

**General Form (Section 49)**

*(Title)*

In the matter of-----------No. \*------------ of 19----------.

I, ------------------------------- of \*\* --------------------------------------------------------

--------------------------------------------------------------------------------------------------------- make

oath and say (or solemnly and sincerely affirm and declare).

*was*

1. That the said---------------------------- ------------ at the date of the petition

*were*

*is*

viz., the day of 19----------------- and still ----------- justly and truly indebted to

*are*

me in the sum of Rs.-------------------------------- for \*\*\*------------------------------- 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, nor 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 \*\*\*\*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Admitted to vote for Rs.

{Swornat--------------------------

{this---------------------------------

{day---------------------------------

{before me-------------------------

*Judge or Official Receiver*

*Deponent's signature.*

*Commissioner.*

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FORM NO. 7

PROOF OF DEBT OF WORKMEN

*(Title)*

I (a) of (b) make oath and say (or solemnly and sincerely affirm and declare):-

*was*

That (d)-----------------at the date of the adjudication, viz., the day of--------------

*were*

is

19-----------, and still--------------justly and truly indebted to the several persons whose

are

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 (e) during such periods before the date of the receiving order as

are set out against their respective 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.

Admitted to vote for Rs. {Sworn at this day before me

*Judge or Official Receiver*

*Deponent's signature.*

*Commissioner.*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

a. Fill in full name, address and occupation of deponent.

b. The above-named debtor or the foreman of the above-named debtor or 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 debtor".

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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 CONDITIONS AS TO EARNINGS, AFTERACQUIRED

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, afteracquired

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

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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 receipts from earnings, after-acquired

property and income during the year immediately preceding 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-------.

*Judge.*

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 a 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.*

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**CHAPTER 5**

**OFFICIAL RECEIVER**

PART A -- APPOINTMENT AND TERMS OF SERVICE

**1. Power of Provincial Government to appoint Official Receivers.--** The

Provincial Government is empowered under section 57 of the Provincial Insolvency

Act, 1920 (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 Chapter 4 on 'Insolvency

Proceedings'.)

**2. Distinction between an Official Receiver and an ordinary Receiver. Official**

**Receiver may be invested with quasi-judicial powers but not a Court.--** The

distinction between an Official Receiver and an 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 Provincial

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.

**3. Official Receiver not to be appointed permanently.--** All first appointments of

Official Receivers shall be made on probation for one year and will be followed by

appointment for five years. No Official Receiver shall be appointed permanently but

shall always remain liable to be removed at the end of each period of five years.

**4. Appointment subject to good conduct and efficiency.--** All appointments shall

be subject to good behaviour and continued efficiency.

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**5. Official Receiver to retire at the age of sixty.--** The appointment of an Official

Receiver shall terminate automatically on his attaining the age of sixty years.

**6. No first appointment above the age of 55.--** No first appointment of a person

over the age of fifty-five shall be made.

**7. Appointment to be subject to existing and future rules.--** All appointments of

Official Receivers shall be subject to the existing rules regarding remuneration,

tenure, etc., made by Government or by the High Court, and to such rules as may

hereafter be framed.

**8. Vacation allowed.--** 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.

I - LEAVE OF ABSENCE

**9. Grant of casual leave.--** (i) It has been decided by the Provincial 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, up to

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 if 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-J71

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) A maximum of two periods of casual leave each exceeding four days but not

exceeding 10 days, are admissible to an Official Receiver in a period of 12 months

commencing with the 15th April in any year with the sanction of the District Judge,

provided that no extra expense is thereby imposed on the Insolvents' Estates Fund.

Ordinarily one period of ten day will be allowed in the summer and one period of ten

days in the winter.

(ii) In addition, two periods of casual leave not exceeding four days at a time, one in

the summer and one in the winter, may be sanctioned by the Insolvency 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 be granted

when the District Judge considers that too much latitude in the grant of leave to an

Official Receiver disturbs the arrangements of his work as Official Receiver and

Court Auctioneer, nor must the total number of days granted in the year be in excess

of thirty days.

(v) Holidays may not be prefixed or affixed to casual leave but one Friday, 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. The last Thursday of each month will never be regarded as a holiday

save in May, June, July August and September, when the District and Sessions

Judge may permit it to be so observed if the state of work permits.

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.

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**10. Security Form, amount and reduction and verification and exemption from**

**stamp duty.--** Every Official Receiver in Punjab is required to give security of **\***[Rs.

30,000.00] or in the sum fixed by the High Court in the case of a specific District for

Rs. 10,000/- in cash, Government Promissory Notes, or Stock Notes of Government

of Pakistan or @Fidelity Bonds of such Insurance Companies as are approved by the

High Court. The mortgage of immovable property to Government will 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 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

5 years is less than Rs. **\***[30,000.00] 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 B 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 period the fact should be noted at the foot

of the bond.

**Note:-** Security bonds and mortgage deeds executed by the Official Receivers under

these rules are exempt from stamp duty under exemption (e) of Article 57, Schedule I

of Stamp Act, 1889 (II of 1899).

REMUNERATION

**11. Remuneration to be paid in the shape of commission--rate of commission.--**

The Official Receiver shall be entitled to charge as remuneration

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for the duties to be performed by him a commission of 5 per cent (3 per cent to be

paid on realization and 2 per cent on distribution of assets) in respect of secured as

well as unsecured debts as follows:-

(a) On amounts realised from insolvent's estates.

(b) When on application in writing to the Insolvency Judge by a creditor, who holds 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.

(c) When the insolvent has compromised or settled with his creditors, on the total

sum agreed to be paid to them.

Provided that in the case of sales and compromises relating to secured property **\***[or

in the case where the amount realized exceeds Rs.3,00,000/-] the Official Receiver

shall be entitled only to such commission not exceeding 5 per cent as the District

Judge may think fit to allow according to service.'

**12. Commission on sale of property subject to mortgage.--** In the case of

property mortgaged to a creditor, commission should be charged on the entire saleproceeds

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 Receivers must not delay the disposal of property till such time as

they 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

the 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.

**\*[13. Commission on sales of agricultural land by Collectors.--** On sales of

agricultural land by Collectors in Insolvency proceedings, Official Receivers may

deduct the following amounts from the sale-proceeds received for distribution:-

(i) The amount of remuneration to be fixed by the Insolvency Judge keeping in view

the provisions of Rule 12 and the services rendered but the amount in no case shall

exceed 2 per cent of the sale-proceeds received.

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(ii) The amount incurred to meet the clerical and periodical audit-charges and

contingent-expenses as certified by the Insolvency Judge.]

**14. Commission on sales of land in another district.--** (i) When the property of an

insolvent is situated in a district other than that in which the adjudication took place,

the Insolvency Judge has the discretion to decide whether the Official Receiver

should sell the property himself or ask the Insolvency Judge or the Official Receiver

of the other district in which the property is situated to do so.

(ii) When the property of an insolvent is sold through the Insolvency Judge or the

Official Receiver of another district, the Official Receiver may deduct the following

from the sale-proceeds received for distribution:-

(a) A commission of 2 per cent as remuneration of the duties performed by him.

(b) A further sum not exceeding 2-1/2 per cent to meet clerical and contingent

expenses and periodical audit.

(iii) The remaining 3 percent will be credited to Government if the property is sold

through Nizarat and paid to the Official Receiver of the other district, if it is sold by

him. The credit to Government will be made under the head **\***[1230000--Law & Order

Receipts; 1231000-Justice; 1231800-Others (75)].

**\*[15. Commission on money realized by a joint receiver or Advisory**

**Committee.--** (i) The amount of remuneration shall be fixed by the Insolvency Judge

keeping in view the provisions of Rule 12 and the services rendered but the amount

in no case shall exceed 2 per cent of the sale-proceeds received.

(ii) The amount incurred to meet the clerical and periodical audit-charges and

contingent-expenses as certified by the Insolvency Judge.

(iii) The remaining 3 per cent or after deducting the amount of remuneration

ordered to be paid to the Official Receiver the remaining amount to the extent

of five per cent of the sale proceeds will be credited to the

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Government if the property is sold through Nizarat and the amount of remuneration to

be fixed by the Insolvency Judge shall be paid to the Official Receiver of the other

district, if it is sold by him. The credit to Government will be made under the head

1230000 Law & Orders Receipts; 12310000-Justice; 1231800-Others (75)].

**16. Commission on infructuous sales.--** Full administration charges **\***[actually

incurred and as certified by the Insolvency Judge to the extent] will be allowed to the

Official Receiver in sales which are set aside, the commission being paid by the

person at whose instance and for whose benefit the sale is set aside.

Administration charges will, however, not be allowed if a sale is set aside on account

of any illegality or material irregularity committed by the Official Receiver or his staff

in proclaiming or conducting the sale.

**17. Commission on money realised through Nazir.--** The Official Receiver is

entitled to one-half of the usual commission on moneys received by him from the

Nazir on account of execution of sales held through a Court before the order of

adjudication was passed. The audit fee and office charges shall, however, be levied

at full rates.

**18. Office establishment charges.--** The Official Receiver shall also be entitled to

deduct from realisations, subject to the conditions laid down in rule 12 above, a

further sum not exceeding 1-1/4 per cent as the District or the Insolvency Judge may

direct by order in writing in order to meet the following charges:-

(a) The salaries of such office establishment as the High Court may sanction.

(b) The rent of such buildings as the High Court may permit to be hired for office or

ware-housing purposes.

(c) Stationery, postage and other office contingent charges within such limits as the

Court may allow.

ESTABLISHMENT

**19. Establishment scale of salaries to be fixed by High Court.--** The

establishment of Official Receivers shall be appointed by them on their own

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responsibility but the scale of salaries to be paid to such establishment must be

sanctioned by the High Court.

**20. Power of High Court to demand removal of any member of the**

**establishment.--** The Insolvency Judge shall have the power to order the removal of

any particular person employed by an Official Receiver on his establishment and to

direct the Official Receiver to appoint another suitable person in his place. On the

application of the Official Receiver the District Judge may set aside or modify any

such order.

**21. Accommodation in Court building to be provided on rent.--** Where

accommodation is available, a room should be provided for the Official Receiver in

the Kachery building, rent as assessed by the Public Works Department, being

recovered from him out of his Establishment Fund, and credited to Government

under the head **\***[1240000-Community Services Receipts; 1241000-Works; 1241100-

Buildings; 1241110-Building; rent (82)].

TRAVELLING ALLOWANCE

**22. Grant of travelling allowance.--** Official Receiver may, on previous sanction in

writing granted in each case by the Insolvency Judge, charge against 1-1/4 percent

office charges fund actual travelling expenses incurred by them on journeys

undertaken in the interests of insolvency work in general. When the travelling is done

in the interests of any particular estate or estates the actual travelling expenses

should be debited to the particular estate concerned instead of to the Office or

Establishment Fund.

**\*[23. Definition of "actual travelling allowance". Daily allowance not**

**permissible.--** The term "actual travelling expenses" should be interpreted as

defined in rule 2.4 of the Civil Services Rules (Punjab), Volume I Part I read with

Travelling Allowance Rules notified vide notification No. FD/Accounts/OSD/498 dated

10.2.1976. No daily allowance will be admissible to the Official Receiver.]

**24. Journeys to be performed by cheapest route.--** The journeys must be

performed by the cheapest route.

**25. Grant of travelling allowance to clerks.--** Clerks and peons to Official

Receivers with the sanction of High Court, may be paid the actual

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travelling expenses which must not exceed those admissible to Government servants

of similar status, incurred by them for journeys performed with the previous sanction

of the Insolvency Judge, in the discharge of their duties.

POSTAGE AND STATIONERY

**26. Postage and stationery to be met out of office fund.--** It should be noted that

all expenditure relating to Insolvent Estates on account of postage should be met out

of the 1-1/4 percent Office Establishment Fund and not from the estates concerned.

The cost of the stationery required for use in connection with the insolvents estates

will be met from Office Charges Fund. An account of such stationery shall be

maintained in ***Form No.21***.

AUDIT

**27. Cost of audit to be met out of estate.--** In order to meet the cost of audit of the

Insolvents Estates by Government, the Insolvency Judge shall deduct from

realisations by Official Receivers and shall credit to Government in the manner

indicated in rule 7 of Part B of this Chapter a further sum which has been fixed

provisionally as 1-1/4 per cent on realisations subject to the conditions laid down in

rule 12.

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PART B -- ACCOUNTS

The following rules have been made by the High Court with the previous sanction of

Government under section 79 of the Provincial Insolvency Act, 1920, for the upkeep

of the Official Receivers' Accounts in the Punjab:-

**\*[1. Sums realized shall be deposited in treasury in the name of the Insolvency**

**Judge.--** All sums realized from the insolvent estates shall be credited in the State

Bank of Pakistan or the National Bank of Pakistan under the head 1230000-Law and

Order Receipts; 1231007-Justice Receipts of the Official Receiver; without delay in

the name of the District Judge or the Insolvency Judge to be styled as "Insolvent

Estates Fund" for recording the transactions of Insolvent Estates dealt with by the

Official Receiver; they shall not be deposited in private banks.

**Note:-** The Accountant-General has ruled that there is no audit objection to the subtreasuries

being permitted to accept money presented for credit into a Personal

Ledger Account of the Insolvent Estates Fund of any particular district. This enables

the Official Receiver to deposit the sale-proceeds in the sub-treasury nearest to the

place where an auction may have been held.

**2. Sums above Rs. 5000 shall be deposited direct in the treasury by the**

**persons concerned.--** All amounts above Rs.5000/- must be deposited directly by

the concerned person direct in the State Bank of Pakistan or in the National Bank of

Pakistan. The necessary challan shall be prepared in triplicate, on the prescribed

form, by the Official Receiver. The treasury challan alongwith the money shall be

presented by the depositor at the counter of the Bank, who after receipt of money

shall return two copies of the treasury challan, duly signed and stamped as a token of

receipt money to the depositor, retaining the 3rd copy with the bank for record. The

depositor shall then be required to hand over one copy of the treasury challan to the

Official Receiver for action and record:

Provided that the provisions of this rule shall not apply to the Official Receiver in the

case of money paid at auctions by himself.

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**3. Amount realised to be deposited by the Official Receiver by the next**

**morning. Receipt to be given to the depositor.--** The amount received each day

by the Official Receiver shall be deposited in the State Bank of Pakistan or in the

National Bank of Pakistan working as agent on behalf of State Bank of Pakistan on

the same day of its receipt or at the most on the morning of next working day. All

such remittances to the Bank should be accompanied by a treasury challan in the

prescribed form in triplicate to be prepared by the Official Receiver. The Treasury

challan alongwith the money shall be presented to the Bank either by the Official

Receiver himself or his nominated representative from amongst his office

establishment. On receipt of money with challan in triplicate the Bank will return two

copies of the challan duly signed and stamped to the official representative, retaining

the third one with it for record. One of the other two copies will be retained by the

Official Receiver for filing in a Guard File while the second copy shall be transmitted

to the District Accounts Officers/Treasury Officer as the case may be, for further

action in his office. The pass Books will be supplied by the District Accounts

Officer/Treasury Officer free of cost. The Official Receiver shall then 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.]

**4. Payment shall be by cheques.--** All payments from the Treasury shall be made

by means of cheques signed by the District Judge or Insolvency Judge.

**Note**. **\*\*\***[Omitted].

**5. Remuneration of Receiver payable by cheque.--** At the close of each month the

amount available for the remuneration of the Official Receiver shall be drawn from

the Treasury by the means of a cheque on presentation of a regular bill by the Official

Receiver through the District Judge or Insolvency Judge.

**6. Office and other charges and payment to creditors payable by cheques.--**

Office charges, amounts payable to creditors and miscellaneous charges shall

similarly be drawn by cheques on presentation of regular bills by the Official Receiver

through the District Judge or Insolvency Judge.

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**7. Audit expenses to be credited monthly in the treasury as a distinct item.--** 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.

**\*[8. Disposal of money unclaimed by creditors.--** Money unclaimed by creditors

should not be kept in deposit indefinitely but should be dealt with in accordance with

the provisions of Article 127 of Account Code Volume II. Rule 12.7 of the Punjab

Financial Rules deals with lapsed deposits, which is reproduced below:--

"12.7. Deposits not exceeding five rupees unclaimed for one whole account year,

balances not exceeding five rupees of deposits partly repaid during the year then

closing, and all balances, unclaimed for more than three complete account years will,

at the close of June in each year, be credited to Government by means of transfer

entries in the Accountant-General's office. See also Article 127 of Account Code,

Volume II.

Exception\_\_\_\_\_All items on account of Sheriffs' Petty Accounts irrespective of their

amounts will remain current for three complete account years and lapse to

Government only on the expiry of that period. The Presiding Officers of the Court

concerned will certify on the statements showing the amount which should lapse to

Government on the expiry of three years, that all such amounts have been included

in the statements.

**Note 1.** The total of the list referred to in Article 127 of Account Code, Volume II,

should be deducted in the plus and minus memorandum from balance shown at

credit of the particular class of deposits, the list itself, signed by the district officer,

being forwarded to the Accountant-General. This duty may be delegated by the

district officer, an officer of the district not being the Treasury Officer.

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Note 2. The Treasury Officer should, in addition to the list required by Article 127 of

Account Code, Volume II, prepare by the 31st December each year a list of deposits

exceeding Rs.100 which have been in deposit for over a month, and should send to

the Collector or other Government servant concerned a suitable extract from the list,

so that it may be considered whether any notice in addition to the one referred to in

the note below Rule 12.8 should issue to the payee."

Article 127 Account Code is reproduced below:

"127. Immediately after 30th June each year, a list of deposits or balances of that

year which lapse under the rules of Government, should also be submitted to the

Accountant General in Form T.A. 49. The list should be signed by the Judge.

For this purpose, the registers of deposits should be taken up early in June and an

extract made on ruled paper of those of each class which will, in ordinary course,

whether from age or pettiness, lapse at the end of the month. This list should then be

reviewed by the Judge, and any item which in his opinion should not be so dealt with

should be struck out and at the same time (if it be an item lapsing from age) entered

on the first page of the Clearance Registers (vide Article 125) for that class, full detail

of the reasons why it is not to lapse being given in a covering memorandum.

Similarly, if any item is repaid in the course of the month, it should be struck out of

this list at the same time as the payment is entered in registers of receipt and

repayment. On 30th June, each of these lists should be checked again with the

registers of receipts, in which the items pertaining to the list should be marked off as

having lapsed and been credited to Government on 30th June.

Note: In preparing the lapsed statement the items should be entered in chronological

order and separate totals should be given for deposits relating to different years."

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Rule 4.130, 4.140 and 4.58 of the Subsidiary Treasury Rules deal with repayment of

lapsed deposit which are reproduced below:---

"4.130. Deposits which have lapsed and so have been credited to Government

cannot be repaid without the sanction of the Accountant-General;

The application for sanction will be made in Form STR 42. There must be separate

application for deposits repayable to each person, and it will be used as the voucher

on which the payment is to be made and submitted to the Accountant-General with

the List of Payments in which it is charged.

4.140. For the repayment of deposits see rule 4.58 under the section "Refund of

Revenue".

4.58. The following procedure should be observed in the payment of refund of

revenue credited:---

(1) Amount of less then Re. 1 due for the refund, shall not be refunded except when

such amount has to be refunded (under an order by a Court of Law). Where several

amounts each less than Re. 1 are refundable to a person in a refund bill, the claim

will be admitted if total of such amounts exceeds Re. 1 at a time.

(2) Amounts of Re. 1/- and over but not exceeding Rs.100 may be sent to the

concerned payee by postal money order subject to following conditions:---

(i) Instructions to this effect have been given in the refund order by the competent

sanctioning authority.

(ii) Clear and definite address of the payee has been given in the refund order for

purpose of sending money order to him.

(iii) Money order fee shall be deducted from the amount of the refund bill.

(iv) Money order shall not be sent where more than one payees are involved.

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(v) The Money order will be sent by the Treasury at risk and responsibility of the

competent authority instructing for payment by money order. In case of non-delivery

of money order on any ground the money order commission shall be debited by the

Treasury Office to the Contigencies of such officer issuing refund order. The

undelivered money order will be made voucher of adjustment of the charges

involved. The refund order will be returned to the concerned authority with necessary

note regarding non-delivery of money order and debit of charges to his office

contingencies.

(vi) when a money order is issued, the purpose of remittance should be briefly stated

on the acknowledgment portions of the money order form in continuation of printed

entry over there viz. Received the sum specified above one.

(vii) The amount of money order should not be remitted in cash to the post office. The

Treasury Officer will send a money order form duly filled in, together with a certificate

that the amount involved and the money order fee thereon have been credited to the

post office in the Treasury Accounts by contra transfer. The post office will accept the

money orders on the authority of the Treasury Officer's certificate.

(viii) On receipt of the money order acknowledgment duly signed by the payee, it

should be attached to the usual receipt in form S.T.R. 34 in which the full amount of

the refund and deductions made therefrom on account of the money order fee should

be clearly shown. The Accountant-General will accept such voucher with the money

order acknowledgment as valid receipt for the full amount of the refund entered

therein.

3. When the amount of refund involved exceeds Rs.100 the competent sanctioning

authority shall issue to the payee a refund order and to the Treasury Officer directly

an advice in respect of having issued such refund order to the payee specified in

such advice. The payee will then appear in person at the Treasury and

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produce the said refund order for receiving the payment. The Treasury Office after

proper personal identification of the payee and having exercised checks prescribed in

various rules, will pass the bill for payment at the Bank to the payee who may then

receive the payment personally or his duly authorised agent or bankers.]

**9. Index Register to be kept.--** 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.

**10. Assets and liabilities of the debtor to be entered in registers specified.--**

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.

**11. Insolvents Accounts books and other documents to be entered in a special**

**register.--** Account books, title-deeds, etc., taken possession of by the Official

Receiver should be entered in a register to be kept in Form 6.

**12. Details of disposal of property to be entered in registers specified.--** 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.

**13. Entry of proved debts in registers.--** Debts proved from time to time should be

recorded in columns 6 to 10 of Register No. 5.

**14. Demand and Collection register to watch recovery of rents and**

**unrecovered balances.--** Rents and other income which may accrue from

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any property as well as the unrecovered balance due, if any, on account of its saleproceeds,

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 columns and the money should then be brought to account in the cash book in

the usual way.

The Demand and Collection Register shall be balanced and closed at the end of

each year and the outstanding balance struck, shown in column 13 and carried

forward to the next year's register and a certificate to this effect furnished by the

Official Receiver.

**15. Bids of sale to be recorded in sale list (register).--** 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. **\***[100] need not, however, be recorded in detail in this register.

**16. Receiver to issue receipts for sums received.--** Any sum received by the

Official Receiver should be acknowledged on a receipt in Form No. 9 (foil and

counter foil), the foil of which should be handed over to the person paying the money

and the counterfoil retained for audit purposes.

**17. Receipt book, Number of forms, etc.--** The receipt books should have an equal

number of forms and bear the printed book and serial numbers.-

**Note 1.** *Receipt need not issue on sale of movable goods.--* 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.

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**Note 2.** *Only printed prescribed receipt forms to be used.--* All receipt must be issued

invariably on the printed forms 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 receipt to be prepared for all amounts received by money order*

*during the day. Money order coupons to be retained for audit.--* In order to avoid any

risk of defalcation the Official Receiver must prepare a receipt in the prescribed form

for all the amounts received 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

acknowledgment. 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.--* Receipts must

be issued for amounts received by the Official Receiver from the Insolvency Court

itself, e.g., on account of unspent balance of the initial deposit received under Rule

53, Chapter 4-B., Rules and Orders, Volume II.

**Note 5.** *Number of forms of receipt books to be certified before use.--* All 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.** *Date of receipt should be noted on money order coupons.--* The dates of

receipt of money should be endorsed by the Official Receiver on the money order

coupons.

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**Note 7.** *Receipts for sums in excess of Rs.20 to be stamped.--* Receipts issued by

Official Receivers for sums in excess of Rs. 20 shall be duly stamped.

**18. Salaries of establishment, pay sheets and acquittance rolls.--** The salaries of

such office establishment of the Official Receiver as may be sanctioned by the High

Court, should be drawn on a pay sheet, Form No.10. The Official Receiver is

personally responsible for every salary drawn on a bill signed by him until he has

paid it to the person entitled to receive it, and has had the column of "acquittance of

payee" signed and stamped, if necessary. If the payee does not present himself

before the end of the month, the amount drawn for him should be refunded by short

drawl in the next bill. His salary can be drawn anew, when he presents himself to

receive it.

**19. Contingent charges-how to be drawn.--** Contingent expenditure includes all

charges other than those of establishment. All contingent charges should be drawn

on a bill in Form No.11.

**20. Permanent advance to receiver.--** 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.

**21. Permanent advance not to be spent without sanction of the Court.--** 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.

100] 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. 50]. When it is

necessary to exceed such limits, the previous sanction of the Court shall be obtained.

**22. Permanent advance account to be kept.--** 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.

**23. Permanent advance -- how to be recouped.--** 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:-

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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 bill in form No.11. The Bill supported by vouchers and signed by the

Official Receiver should then be laid before the Court for payment.

**24. Entry of receipt by cheque to be made in books.--** When a cheque for

payment is received, the details should be entered in the cash book and the amount

drawn classified in the various ledger accounts concerned.

**25. Annual certificate of permanent advance.--** On the Ist **\***[July] 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.

**26. Stamps -- Account to be kept in a stamp register. Private stamps to be**

**used-expenditure to be met out of permanent advance.--** Stamps and 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 head

"Office Charges" a stamp register should be maintained in Form No.13.

**Note:-** Private stamps should be used in correspondence in connection with

insolvency accounts.

**27. Administration charges to be recorded in a specified register and drawn on**

**a contingent bill.--** Soon after the close of a month the administration charges to be

drawn from the estates of insolvents should be calculated and recorded in a register

to be kept in Form No.14.

The totals of columns 7, 8 and 9 should then be abstracted in a contingent bill and

laid before the Court for order of payment which should be recorded in the following

manner:-

1. Pay Rs.--------- in cash(being the total of column 7) ;

2. Rs.-----------by transfer credit to Government (being the amount of audit fees

shown in column 8);

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3. Rs.----------by transfer credit to head "Office Charges" (being the amount shown in

column 9).

**Note:-** All bills presented by the Official Receiver for payment shall be checked by

the Superintendent of Court or Reader to the District Judge or Reader to Insolvency

Judge, and cheques prepared after payment order has ben recorded on the bills.

**28. Separate cheques to be drawn for receiver's commission and audit**

**expenses.--** 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 and the

latter on account of the audit fee to be credited to Government. It should be made

payable to "Government for credit as audit fee."

**29. Mode of entry of the bill in cash book.--** The whole amount of the bill should

then be shown on the expenditure side of the cash book and that representing" Office

Charges" should be shown by a per contra entry on the receipt side.

**30. Adjustment to be made where administration charges are levied on total**

**sum agreed to be paid in cases of compromise or settlement.--** 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 month on account of such estates should be adjusted

against 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.

**31. Entries in cash book to be made by receiver in his own hand.--** 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.

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**32. Payment to secured creditors not to be held over till dividend is declared.**

**Entry of payment.--** 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 or register

No. 5 against the entry concerned.

**Note:-** *Crediting of administration charges on sales where secured creditor is himself*

*purchaser.--* When the purchaser 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-proceeds 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.

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.

**33. Annual certificate of amounts credited to Government for audit charges.--**

The Official Receiver shall early in **\***[July] each year, forward to the **\***[The Director

General Audit, Punjab], a statement certified by him showing all amounts credited to

Government on account of audit charges in the preceding financial year.

**34. Moneys pertaining to Insolvent Estates Fund should not be kept apart from**

**the general balance.--** 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

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the appropriate head of account, the adjustment of such an advance to be watched

through the Demand and Collection Register.

**35. Surplus available on the office fund may be invested in Government**

**securities.--** If and when there is an appreciable amount to spare in the Office or

Establishment Fund the surplus available may be invested in Government Securities

with the previous sanction of the High Court and an account maintained in Form No.

22.

**36. All receipts for money should be duly accounted for.--** 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.

**37. Mode of entry in cash books of remittances to treasury.--** Money remitted to

the **\***[Bank] in accordance with the procedure laid down in Rule 3 should be entered

in columns 8 and 9 of the cash book under the initials of the Official Receiver.

**38. Payment on a bill should be by a cheque.--** 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.

**39. Comparison of cash book with Treasury Pass Book.--** 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

Pass Book in the manner prescribed in rule 56 below and any differences should be

explained and accounted for in a foot-note in the following manner:--

Balance as per Pass Book ... Rs.\_\_\_\_\_\_\_\_\_

Add amount of permanent advance ... Rs.\_\_\_\_\_\_\_\_\_

Money received too late for remittance to treasury ... Rs.\_\_\_\_\_\_\_\_\_

Total ... Rs.\_\_\_\_\_\_\_\_\_

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*Deduct--*

Outstanding cheques as per details below ..

Balance as per cash book .. ..

Cheques outstanding on .. ..

No................dated.............amount..............

**40. Closing balance in cash book must agree with the total of closing balances**

**of ledger accounts.--** The closing balance in cash 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 balances 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 places 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.

**41. Ledger accounts form, different heads of account, monthly balances,**

**posting of cash book entries.--** 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., "Office Charges" 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.

**42. Cheque books-how obtained and kept.--** 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.

**43. Cheques to be counted before use.--** 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.

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**44. Cheque book-how to be dealt with when drawing officer relinquishes**

**charge.--** 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.

**45. Drawing officer responsible for safe custody of cheque books.--** The

drawing officer should be personally responsible for the safe custody of the cheque

books.

**46. Cheque to be signed only when required for immediate delivery.--** No

cheques should be signed unless required for delivery without delay to the person to

whom the money is to be paid.

**47. Directions for filling in cheques.--** 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 an entry of `Under Rupees' as a preventive against

fraud.

**48. Cheques remain current for 3 months.--** Cheques issued remain current for

three months from the date of issue.

**49. Undelivered cheques to remain in personal custody of Receiver.--** If for any

special reason a 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.

**50. Redating cheques not encashed within 3 months.--** When a signed cheque

delivered to a person for whom it is drawn is not presented for encashment at the

treasury within the prescribed time, it may be validated at the request of the payee.

The alteration of date should be initialled by the drawing officer, a note of the fact of

redating being entered in the cash book against the original transaction and upon

counterfoil of the cheque itself. The alteration will in no way affect the accounts and

no further entries shall be made.

**51. Disposal of undelivered cheques or money orders returned.--** When a signed

cheque (vide rule 49) is not delivered to the person in whose favour it is drawn within

the period the cheque is current, it should be cancelled

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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.

**52. Disposal of cancelled cheques.--** 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 counter-foil that the cheque has been so destroyed and the amount

thereof transferred to `Deposit Account'.

**53. Entries in treasury pass book to be made only by the treasury.--** The Official

Receiver should have a treasury pass book which is obtainable free of cost from the

treasury. No entry or mark of any kind should be made in the pass book by any

official of the Official Receiver's establishment. All entries in the pass book should be

made in the treasury only.

**54. Treasury pass book to be kept in personal custody of the Receiver.--** The

pass book should be kept under lock and key in the personal custody of the Official

Receiver.

**55. Pass book to be sent to treasury from time to time to be written up monthly**

**total and balances.--** All sums paid into the treasury for credit to Insolvents Estates

Fund, and all payments made on cheques should be shown in the pass book 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 pass book should be totalled and a balance

struck under the signatures of the Treasury Officer.

**56. Comparison of pass book with the cash book.--** At the end of each month the

receipts and expenditure shown in the pass book should be

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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 39.

If any delivered cheque appears to be outstanding for more than three months from

the date of issue and has not been re-dated under rule 50, it should be cancelled in

the manner laid down in Rule 51 and the amount thereof transferred to the Deposit

account.

**57. Special account register for cancelled cheques.--** The necessary particulars

of the amounts transferred to "Deposit Account" under rules 51 and 56 should be

posted in a Deposit Register to be kept in Form No. 18.

**58. Mode of drawing deposits.--** Deposits, when claimed, will be drawn on

contingent bill, Form 11, and disbursed in the ordinary way.

**59. Outstanding deposits to be carried into next year's register.--** 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.

**60. Disposal of deposits not claimed within one account year.--** 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 **\***[1200000-

Receipts from Civil Administration and other Functions; 1230000-Law & Order

Receipts; 1231000-Justice; 1231001 Justice-Sale Proceeds and Escheated

Property.]

**Note 1:-** 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 **\***[June] in each year.

**61. Amount of dividend declared to be drawn on contingent bill and disbursed**

**by cheques.--** (i) The amount declared to be paid as dividend shall be drawn

on a contingent bill in Form 11. Details of names and amounts

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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 dividends 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. 50 may be made in cash out of the

permanent advance granted to the Official Receiver under Rule 20.

**62. Bills should be kept with sub-vouchers in guard files.--** 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 *misls.*

**63. Furniture list to be kept.--** 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.

**63-A. Stock of all movable property, etc., to be checked yearly.--** The stock of

movable property, stationery and forms, and stamps, etc., should be checked yearly

by actual verification and a report to this effect should be submitted to the Court by

the Official Receiver.

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**64. Accounts to be maintained according to financial year.--** The accounts of

Official Receivers shall be maintained according to the financial year.

**\*[65. Accounts to be audited once a year.-- The** accounts maintained by the

Official Receiver should be audited, as far as possible, once a year by the Director

General Audit, Punjab, 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

Director General Audit, Punjab.]

**66. Accounts of summary Administration also to be audited.--** The accounts

maintained in cases dealt with summarily by the Insolvency Courts under section 74

of the Act shall also be audited.

**67. All necessary material to be supplied for audit.--** 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.

**68. Audit result to be sent to Insolvency Judge and High Court.--** The result of

the audit will be communicated in audit and inspection notes to the Insolvency Judge

and the Lahore High Court Lahore.

**69. Audit and Inspection notes-how to be dealt with.--** 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.

**\*[70. Copy of the annotated note to be forwarded to the Examiner of Accounts**

**and another copy to be kept in office. Objection statement how to be dealt**

**with.--** A copy of the annotated replies to the Audit Observation shall be forwarded

to the Director General Audit, Punjab, and a copy of it kept

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and produced to the Audit Officer at the time of the next Audit for information and

verification of the compliance made by the Insolvency Judge and consequential

settlement of Audit Observations.]

**71. Only prescribed forms to be used.--** 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 Director General Audit, Punjab.

**72. Account books and registers to be bound and counting of pages to be**

**certified.--** 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.

**73. Stock account of all registers, etc., should be maintained.--** 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.

**\*[74. The Director General Audit to be consulted in account matters not**

**provided for in rules.--** In the matter of details connected with the Accounts not

provided for in the rules, the Official Receiver should be guided by the instructions of

the Accountant General Punjab, as far as the accounting matters are concerned and

of the Director General Audit, Punjab, if the matters relate to Local Audit of these

Accounts.]

**75. Erasures in accounts not allowed. Corrections and alterations to be made**

**in red ink and initialled.--** Corrections and alterations in accounts shall be made in

red ink and attested by the Official Receiver. Erasures should, on no account, be

allowed.

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FORM NO.25 Fidelity Bond

(See rule 10 of Chapter 5-A, 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 Employee') and the\_\_\_\_\_\_\_\_are held jointly and

severally bound unto the Governor of the Punjab, 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 firmly 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\_\_\_\_\_\_\_\_\_\_ (year)

**WHEREAS** the said Employee has 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 employee 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 Employee, has agreed to become such

surety for him, in respect of such due and faithful discharge of his duties

while employee 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

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new or altered duties which may be imposed on or attached to the said office, or the

said Employee 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 Employee having

paid to the said Company the amount set out in figures at the head of these presents

and there designated "Annual Premium", prior to the execution of the above written

Bond and the said Company has 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 Employee 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 Employee 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 has 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 Employee during that year, or until an 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

Employee 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

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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, scrip, 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 misbehavior 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 Employee, 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 up to the person duly authorized 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 authorized 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 Employee 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 award in arbitration being given under the hand of the District Judge

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of \_\_\_\_\_\_\_\_\_\_\_\_\_\_for the time being, certifying and declaring the amount of any

loss or damage occasioned by the acts or defaults of the said Employee subsequent

to the said \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 19 , in respect of such

employment, the said Employee, 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 Employee 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 Employee 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 one 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 Employee, 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 the 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 Employee previously committed in relation to such employment

as aforesaid.

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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 or operation of any part thereof or

the rights, duties, or liabilities of any party or 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 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

and 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 employee, 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 WITNESSES** whereof the said\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ has 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.

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**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 ) Signed by in authorised

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_) ) agent of the Company.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_) Manager )

Accepted )

\_\_\_\_\_\_\_\_\_\_\_(Signature)

District Judge\_\_\_\_\_\_\_\_District

for and on behalf of the Governor

of the Punjab

No.

Entered.

Examined.

**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 words '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.

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Form No. 26

WHEREAS I,--------------son of------------- Caste--------- resident of---------- in the---------

district of the Punjab, have been appointed to the office of Official Receiver in the-----

------ district of the Punjab upon the condition inter alia that I do furnish proper

security in the sum of **\***[Rs.30,000/-(Rupees Thirty Thousand only)] for the due and

faithful discharge of my duties while employee 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 may

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 Governor of the Punjab acting by and through the --------

-------------------

(b) "Official Receiver" means ----------------------- son of -------------, caste ------------------

------ resident of -----------------------------in the------------------------------------ district of the

Punjab at present holding the office of Official Receiver in the------------------------

district of the Punjab.

(c) "property" includes cash, coin, currency notes, stock notes, cheques, postal

money order, 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

movable and immovable.

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*Clause II. --* The Official Receiver is held and firmly bound to Government in the sum

of **\***[Rs. 30,000/-(Rupees Thirty 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 the duties of his said office or of a 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 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 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.

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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 to 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 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 Clauses VII and VIII hereinafter appearing hold and

retain the security (deposit) 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 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 employee 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 VII.--* In the event of any breach of or default in all or any of the conditions

herein before in the preceding clause set forth and provided the

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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 the 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, representatives 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 herein before 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.

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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. -------------------------------------------------------------------------------

-------------------------------------------------------------------------------

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Form No. 27

WHEREAS I,------------------- son of---------------- Caste---------------- resident of------------

-- in the -------------district of the Punjab have been appointed to the office of the

Official Receiver in the-------------district of the Punjab upon the condition inter alia

that I do furnish proper security in the sum of **\***[Rs.30,000/-(Rupees Thirty Thousand

only)] for the due and faithful discharge of my duties while employee 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 1.-** 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 acting by and through the

District Judge of\_\_\_\_\_\_\_\_\_\_\_\_.

(b) "Official Receiver" means\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ son of

\_\_\_\_\_\_\_\_\_\_\_\_\_ caste\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ resident of

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in the \_\_\_\_\_\_\_\_\_\_\_\_\_ district of the Punjab at

present holding the office of Official Receiver in the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ district of

the Punjab.

(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

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 is held and firmly bound to Government in the

sum of **\***[Rs.30,000/-(Rupees Thirty 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

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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

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 due 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 properties 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 time 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 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

under the orders of the Government for the performance of a public

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duty within the meaning of Section 74 of the 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\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 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 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 employee by him or from or through the consuming, wasting,

embezzling, stealing, mis-spending, losing mis-applying or otherwise dishonestly or

negligently or through over-sight 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

herein before 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 indemnify it in respect of the

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, representatives or assigns shall have any right

or claim to any such refund.

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**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 herein before 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

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 of 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.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Form No. 28

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 (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 exercise 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 indemnifying the mortgagee, his successors and assigns against

all loss or damage that the mortgagee may, in any way, suffer by reason of the

neglect of duty waste or embezzlement or otherwise of any property or part or parts

thereof in charge of or in the care and custody of the said 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

do 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 together with 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 ever 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

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exercise the same as set forth in the Bond of even date herein before specified and

also if the mortgagee, his heirs and legal representatives will pay and make good to

the mortgagor his successors and assigns and to the superior officers of 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 reassign 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 in the due performance

of his duties as aforesaid the mortgagor his heirs and legal representatives shall

continue in possession of and in receipt of the rents and profits of the said

hereditaments and premises. And the mortgagor do hereby for himself, his heirs,

legal representatives and assigns covenant with the mortgagee his successors and

assigns that he the mortgagor now has 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 do hereby for himself his heirs 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 equitably claiming any estate or

interest in the said hereditaments and premises or any part thereof shall and will from time to

time and at all times thereafter at his or their own costs during the continuance of this security

and afterwards at the costs of the person or persons requiring the same do and

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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 mortgage his successors and assigns and other persons aforesaid in

manner aforesaid as shall or may be reasonably 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 herein before mentioned

and contained or any part thereof respectively then 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 authorized 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 sent 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 herein before 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 bearing 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

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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 effect the rights 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 dates 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 on the dates hereinafter mentioned, respectively.

Signed, sealed and delivered by the said------------------------------------ on the--------------

------------------------------------------------ day of----------------------- ---------------19, ------------

----------------------------------------------------------in the presence of ------------------------------

------------------------------------------ witness -----------------------------------------------------------

-------------------------------------.

Signed sealed and delivered by ---------------------------------------- for and on behalf of

the Government on the -------------------------------------------------- day of ----------------------

-------- 19 .

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FORM NO.29

WHEREAS ----------------- son of --------------------- Caste -----------------resident of --------

--------------------in the --------------- district in the Punjab has been appointed to the

office of Official Receiver in the ----------------------------district in the Punjab upon

conditions inter alia that he does furnish proper security in the sum of **\***[Rs.30,000/-

(Rupees Thirty Thousand only)] for the due and faithful discharge of his duties while

employee 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

(hereinafter on his own behalf and on behalf 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 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 Governor of the Punjab acting by and through the

District Judge of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

(b) "Official Receiver" means\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ son

of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ caste\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ resident

of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in the

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ district of the Punjab.

(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, precious 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

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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 and firmly bound to

Government in the sum of **\***[Rs.30,000/-(Rupees Thirty 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 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 property

whatsoever which he holds 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 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 surety has executed and registered a deed of mortgage, dated

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_date of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_19 of the property in the

said deed of mortgage set forth and specified as security for the

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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 orders of the Government for the performance of a public duty within the

meaning of Section 74 of the 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 and 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 obtained, 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.

(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 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 employee by him or from or through the consuming, wasting,

embezzling, stealing, mis-spending, losing , mis-applying or otherwise dishonestly or

negligently or through over sight 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

herein before in the preceding clause set forth and provided the Government may

realize, take and forfeit to itself the whole amount of the Security:

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**PROVIDED** that the Government may, instead of taking and forfeiting to itself the

whole amount of the Security realize 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 losses or damage or inconvenience sustained by reason of the breach

or default committed, pay any balance thereof to the surety; but neither to the Official

Receiver nor his or their lawful heirs representatives or assigns shall have any right

or claim to any such payments.

**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 property secured, shall, if there shall have been no breach

or default in all or any of the conditions herein before 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 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 any thing 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.

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**IN WITNESS WHEREOF** the said Official Receiver and the surety have hereunto

subscribed their names at\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ on the

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_day of\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_19 .

Signed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Official Receiver.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Surety.

Witnesses-

1.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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PART C -- SUPERVISION AND CONTROL

**1. Annual inspection.--** Insolvency Judges and District Judges should inspect the

Official Receiver's work once a year.

**2. Annual remarks.--** Annual remarks should be recorded on the work and character

of Official Receivers by Insolvency Judges and District Judges.

**3. Cash book should be put up daily before the Judge.--** 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.

**4. Cash book receipt side should be checked by the judge.--** 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 a token of his having

carried out the check.

**5. Cash book--Expenditure side should be checked by the Judge.--** The

Insolvency Judge should similarly check the entries on the expenditure side of the

Cash Book with 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.

**6. Monthly inspection of Demand and Collection Register.--** The Demand and

Collection Register (Form No. 7) should be inspected by the Insolvency Judge on the

first working day of each month and it should then be signed and dated by him.

**7. Dividend register should be checked by the Judge whenever dividend is**

**declared.--** 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.

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**8. Monthly comparison of Pass Book with cash book by the Judge.--** 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.

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PART D -- GENERAL INSTRUCTIONS

Official Receivers' Records

**1. A separate record for each case to be kept.--** The official Receiver 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.

**2. The Receiver to record all orders and depositions.--** 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.

**3. Parts A and B of the record.--** 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.

**4. Records and registers to be made over to the court on completion.--** 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.

**5. These records are public records and should not be left with the Receiver**

**when no longer required.--** The practice by which all such Records are allowed to

remain in the hands of the Official Receiver himself and to be treated more or less

like his personal property should be given up. These records relate to proceedings of

a public nature and must be treated as public documents.

**6. Court not to make over its own record to Receiver.--** 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 touch with the progress of administration when it makes over

the whole of its own record to the Official Receiver and retains nothing itself.

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**7. Index of papers to be maintained.--** 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.

**8. The production of records of decided cases from the Record Room should**

**not ordinarily be allowed.--** The Official Receivers 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.

*Destruction of Records*

**9. List of records and registers to be preserved in perpetuity.--** The following

Registers and Records shall be preserved 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. Dividend Register.

Form No. 20. List of Office Furniture.

Counterfoils of all cheques.

All audit objections and replies thereto.

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**10. List of registers to be preserved for 50 years.--** The following Registers shall

be preserved for fifty years from the date of the last entry:-

Form No. 4. Register of Movable Property.

Form No. 5. Register of Debts due to the Insolvent.

Form No. 6. Register of Title deeds.

**11. List of record to be preserved for 20 years.--** The following shall be preserved

for twenty years from the date of the last entry and shall then be destroyed:-

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.

*Leases*

**12. Oral leases not allowed.--** The practice of giving out leases orally is

objectionable. It is imperative that Official Receivers should in all cases obtain a

regular lease-deed from the lessee concerned.

**13. Lease in favour of insolvent not approved.--** 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 is in effect left entirely undisturbed in the enjoyment of his

property without paying anything to the creditors.

**14. Court officials not to bid at sales held by Receiver.--** The officials of

Insolvency Courts are strictly prohibited from bidding for or purchasing anything at

sales held by Official Receivers.

**15. Sales by Receiver require no confirmation by court. Sales to be conducted**

**personally by Receiver except as provided.--** Official Receivers have full

powers to sell all or part of insolvent's property without confirmation by the Court.

Any person aggrieved by the Official Receiver's action may

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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 Receivers' clerks except in cases where the property to be sold is situated at

a place difficult of access when it may be sold by the Official Receiver's clerk,

provided that---

(a) the estimated value of the property does not exceed Rs. 2500; 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.

**16. On sale Receiver should execute a deed of sale and not issue a sale**

**certificate.--** When a sale has been held the correct procedure is not for the Official

Receive 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.

**17. Statement of sales to be submitted to Court every month.--** The Official

Receivers should submit to the Court a statement of sales conducted by them on the

first working day of each month for the sales conducted during the previous month. It

shall be the duty of the Court to check this statement with the entries in the Cashbook

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.

*Progress Reports*

**18. Receiver to submit to court after six months progress report of the**

**administration of estate.--** Each Official Receiver must, after six months from the

date on 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.

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**19. An estate should be wound up within a year.--** All estates should ordinarily be

wound up 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.

*History Sheets*

**20. History sheet of old cases.--** The Official Receivers shall in addition to the

progress reports mentioned above submit to the District 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.

*Engagement of Lawyers*

**21. Engagement of a counsel by a Receiver subject to previous sanction of**

**Court.--** The sanction of the Insolvency Judge to the appointment of a Advocate and

his remuneration shall be obtained under section 59 of the Provincial Insolvency Act

before any counsel is engaged by an Official Receiver.

**22. Official Receivers not allowed any fees for cases conducted by**

**them.--** The Official Receivers cannot charge any fees themselves whenever they

appear in Court in cases entrusted to them as Official Receivers.

*Miscellaneous Instructions*

**23. Pay of insolvent Government servant should be attached**

**through the Head of Department.--** 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.

Note:- See rule 5.9 and 5.10 of the Punjab Financial Rule Volume-I read with

appendix 12 printed in Punjab Financial Rules Volume-II.

5.9 (a) The extent to which the emoluments of a Government servant are exempt

from attachment for debt is laid down in section 60(1) of the Code of Civil Procedure

1908. The section is reproduced in Appendix 12.

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(b) The following instructions should be observed in recovering amounts from

Government servants on account of attachment orders issued by courts:-

(1) The maximum amount attachable by a Civil Court is calculated on the amount

earned and not on what remains after satisfying any debts due to Government on

account of advances taken under rule.

(2) Any deduction which may have to be made on account of subscriptions to

provident funds recognised by Government, taxes on income payable by the

Government servant and debts to Government should be made from the nonattachable

portion of Government servant's salary.

(3) Recoveries in satisfaction of attachment orders should be made in the order in

which they are received and should be made by the head of the office in the case of

officials. In the case of officers the recoveries should be made by the Treasury

Officer.

Note.1 The cost, if any, of remittance to a court of money realized under its

attachment order should be deducted from the amount realized and the net amount

remitted to the Court.

Note.2 Cases may occur in which the judgment-debtor does not sign the acquittance

roll and intentionally allows his pay to remain undisbursed, or the judgment-debtor

being an officer or Government servant permitted to draw his pay on a separate pay

bill, may refrain from preparing his pay bill and drawing his pay regularly in order to

evade payment on account of an attachment order issued by a Court of Law. In such

circumstances the head of the office or, in the case of Government servant drawing

pay on separate bill, the Administrative Officer of the department concerned may

draw the pay of the judgment-debtor in satisfaction of the attachment order subject to

the prescribed restrictions and remit the amount to the Court concerned. The amount

drawn should be charged in the accounts, the particulars of the attachment order

being cited in the acquittance roll or the pay bill, as the case may be as an authority

for the charge and the court's receipts for the amount should be filed with the

attachment register.

5.10 The liability of pensions to attachment by a Civil Court, is regulated by section II

of Act XXIII of 1871, which runs as follows:-

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"No pension granted or continued by Government on political considerations, or on

account of past services or present infirmities or as a compassionate allowance, and

no money due, or to become due, on account of any such pension or allowance,

shall be liable to seizure, attachment or sequestration by process of any court in the

Provinces at the instance of a creditor for any demand against the pensioner, or in

satisfaction of a decree or order of any such Court.

**24. Receiver to guard against entry of bogus creditors in the schedule.--** It has

come to notice 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.

**25. Balance of one estate not to be used for administration of another estate.--**

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.

**26. Receiver can not use the service of process servers.--** The Official Receivers

are not entitled to use the services of the process-serving establishment.

**27.** 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.

**28. A list of common irregularities noticed in the work of Receivers.--** 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.

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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 dividend hitherto.

3. Amount distributed during period of report.

4. Balance in hand.

**Remarks**

1. Official Receiver's explanation as to delay, etc.

2. Remarks of Insolvency Judge.

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CHAPTER 6

PROBATE, ADMINISTRATION AND

**SUCCESSION CERTIFICATES**

PART A -- PROBATE AND ADMINISTRATION

**Reference to Succession Act, 1925.--**

The present law of Probate, Administration and Succession Certificates is contained

in Succession Act of 1925 as further amended by Act XI of 1926, Acts X, XII and

XVIII of 1927 and Acts XVIII and XXI of 1929 and XVII of 1931. The references below

are to the Act of 1925.

**2. Inventory of property and assets and debts and accounts to be put in.--**

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).

**3. Form for grant of Probate and Letters of Administration.--**

The from 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.

**4. Copy of Section 317 prescribing penalty for not filing inventory and accounts**

**to be given.--**

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. 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.

**5. Probate or Letters should be surrendered on revocation of grant.--**

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

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Court by the person to whom they were granted and a penalty is prescribed for

failure to comply with this requisition.

**6. Case in which Probate or Letters are conclusive in the whole of Pakistan.--**

In respect of estates in which the value of the property affected beyond the limits of

the Province does not exceed Rs. **\***[1,00,000] 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 throughout

Pakistan (section 273).

**7. Procedure where Probate or Letters have to take effect throughout Pakistan.-**

Section 274 of the Act prescribes the transmission to High Courts and District Judges

of certificates of grants having effect throughout Pakistan.

**\***[Where the grant of Probate or Letters of Administration has or have been made by

a High Court, it shall send a certificate thereof to each of the other High Courts; and

where such a grant has or have been made by a District Judge, to the Lahore High

Court and to each of the other High Courts.]

**8. Amount and locality of assets beyond the province to be stated.--**

Sections 276 and 278 of the Act require applicants to state the amount and locality of

assets situated **\***[both within] and outside the Province.

**9. Applicants to state in some cases whether Probate or Letters have been**

**applied for elsewhere.--**

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.

**10. Case where copy of citation to be issued outside Province.--**

Section 283 directs the issue of a copy of the citation outside the Province to the

District Judge in whose jurisdiction the property is situated.

**\*[11. Inventory to include property in any part of Pakistan in certain cases.--**

Section 318 directs the inclusion in the inventory of the deceased's assets of all his

properties in any part of Pakistan, where the grant has been made having effect

throughout Pakistan.]

**\*[12. Certificate where Probate or Letters are effective throughout Pakistan.--**

When a grant of Probate or Letters of Administration is made by a

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District Judge and it is intended that the grant is to have effect throughout Pakistan, a

certificate in the following terms should be endorsed at the foot of such grant, as

required by section 273, namely:-

"Certified that the value of the property effected beyond the limits of the Punjab by

the foregoing grant does not exceed ten thousand rupees.

(Sd.)--------------------,

District Judge."]

**13. Rules framed under sections 223 and 226 of the Act.--**

In exercise of the powers conferred by sections 223 and 236 of the Succession Act,

1925 (XXXIX of 1925) the Governor-General in Council is pleased to made 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

settlement 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 **\*\*\***[Omitted] Succession Act,

1925, shall be the following namely:-

(1) The Company shall be either-

(a) a company formed and registered under the Companies Ordinance 1984, the

Companies Act, 1913, or under the Companies Act, 1866, or under any Act or Acts

repealed thereby, or under the Companies Act, 1882, or a company formed under

any other Act of the Governor-General in Council or of the Pakistan 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 Pakistan, or

(c) a company established by Royal Charter and having a place of business in

Pakistan. \*

(2) The company shall be a company empowered by its constitution to undertake

trust business.

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(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

(b) 100,000 British Pounds 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 Governor-General in Council may exempt any company from the

operation of this clause.

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PART B -- SUCCESSION CERTIFICATES

**Introductory.--** 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 Succession Act, 1925.

**2. Civil Judges empowered to grant certificates.--** All Civil 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).

**Forum of Appeal.--** Applications under Part X of the Succession Act, 1925, will

usually be dealt with by Civil 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.

**3.** Turning to the procedure prescribed by the Act the following points should be

borne in mind-

(a) **Succession Certificate, etc., should be obtained by an heir for recovery of**

**debts due to a deceased person.--** 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 Act of 1889, or the 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

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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 (ef.,20 P.R., 1901)

(b) **Definition of debt.--** 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.

(c) **Application for a Succession Certificate to be signed and verified. Its**

**contents.--** The particulars to be specified in an application for a certificate are

specified in 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 subsection (2) of this section prescribes the manner of dealing with allegations

contained in the application which may be found to be false. As the application 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.

(d) **Manner of inquiry and security to be taken from the grantee of certificate.--**

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, subsection (3), is

followed in any case, the court is bound to demand

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security from the person to whom it proposes to grant the certificate as a condition

precedent to such grant.

(e) **Objections to application. Procedure in case of several claimants for a**

**certificate.--** 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;

(f) **Points to be considered in deciding the cases of rival claimants.--** In deciding

which of several applicants is entitled 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;

(g) **Application and certificate to contain details of debts and securities.**

**Extension and amendment of the certificate.--** 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, subsection

(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).

**4. Form and contents of certificate.--** The particulars required 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 duly inserted in the first

instance, so as to obviate the necessity for subsequent amendment of the certificate.

**5. Requisition of security from grantee of certificate.--** 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

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law or fact which may be involved, security must be taken under section 375, subsection

(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, subsection (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.

**6. Court-fees in cash on application for a certificate or for its extension.--**

Attention is drawn to the provisions as to court-fees contained in section 379 of the

Succession Act, 1925, as substituted by the West Pakistan Amendment Ordinance

No.XXXI of 1965. Where the District Judge allows an application for the grant of a

certificate or for the extension of certificate, he shall calculate the amount of court-fee

payable under the Court Fees Act, 1870, on the certificate or the extension of

certificate and shall not grant the certificate or the extension of the certificate until the

Court-fee so calculated has been paid by the applicant.

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.

No specific procedure for obtaining or sale of the court-fee by or to the applicants for

the grant of succession certificates has been prescribed and the general procedure in

this behalf has to be followed.

**#[7. Conclusiveness of certificate.--** A succession certificate under the Act has

effect throughout Pakistan (section 380).]

**8. Revocation of certificate.--** Provision is made in section 383 for revoking

**#**[Succession] Certificate on certain grounds which are specified.

**9. Grant of Probate or Letters supersedes succession certificate.--** Under

Section 215, a grant of Probate or Letters of Administration, supersedes a

**#**[Succession] Certificate granted under Part X of the Succession Act, 1925, or under

the Succession Certificate Act, 1889.

**10. Decision in Succession Certificate proceedings does not operate as res**

**judicata.--** By Section 387 of the Act, no decision, given in dealing with an

application **#**[for the grant of a Succession Certificate] under the

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Act, upon any question of right between any parties, bars the settlement of the same

question by a competent Civil Court.

**11. Surrender of the certificate if it is invalid or has been superseded.--** By

section 389, the holder of a Succession 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.

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PART C -- ADMINISTRATION OF THE ESTATES OF DECEASED MILITARY

OFFICERS

**1. Introductory.--** The following directions are issued on the subject of the

administration of the estates of Military Officers dying **#**[during] service, and the

course to be pursued by District Officers on the occasion of the death of a Military

Officer in Civil employ.

**2. Reference to law.--** The law is contained in the Regimental Debts Act, 1893, 56

and 57 Vic., Chap. 5, and in the Royal Warrant and Regulations made under the Act.

**3. Committee of adjustment, its appointment and duty.--** The distribution of the

effects of a Military Officer dying **#**[during] service pertains to the Military Department,

and a special agency for dealing with the estate is provided in the appointment of the

Committee of Adjustment. The appointment of the Committee of Adjustment rests

with the Military authorities, and it is the duty of the Committee to secure the effects

of the deceased.

**4. Duty of District Officers.--** District Officers are not required by law to interfere in

any way with such estates. They will, of course, when duly required, lend all proper

aid to the Committee of Adjustment. On the occasion of the death of a Military Officer

in civil employ, the Deputy Commissioner of the District should immediately report

the fact, through the Commissioner, to the Military Officer Commanding the District,

retaining the property, if necessary, under his charge until a Committee of

Adjustment has been appointed. All further steps will be taken by the Military

authorities.

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PART D -- THE ADMINISTRATION OF ESTATES OF CITIZENS OF FOREIGN

COUNTRIES DYING IN PAKISTAN

Attention is drawn to the following Notification of the Central Government in this

connection:-

Central Government Notification in the Home Department No. F. 620/32, dated the

25th July, 1932 as amended by F. 594/36, dated the 3rd September 1936:-

In exercise of the power conferred by section 57 of the Administrator-General's Act,

1913 (III of 1913) and in supersession of the Notification of the Government of India

in the Home Department, No. 270, dated the 11th February, 1903, the Governor-

General in Council is pleased to direct that where a subject of a state specified in the

schedule hereto annexed dies in \*[British India], and it appears that there is no one in

\*[British India], other than the Administrator-General, entitled to apply to a Court of

competent jurisdiction for letters of administration of the estate of the deceased,

letters of administration shall, on the application to such Court of any Consular

Officer of such state, be granted to such Consular Officer on such terms and

conditions as the Court may, subject to the following rules, think fit to impose,

namely:-

(1) Where the deceased has not left in \*[British India] any known heirs or

testamentary executors, by him appointed, the local authorities, if any, in possession

of the property of the deceased, shall at once communicate the circumstances to the

nearest Consular Officer of the state of which the deceased was a subject in order

that the necessary information may be immediately forwarded to persons interested.

(2) Such Consular Officer shall have the right to appear, personally or by delegate, in

all proceedings on behalf of the absent heirs or creditors of the deceased until they

are otherwise represented.

*Schedule*

1. United States of America.

2. Argentine Republic.

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3. Belgium.

4. Costa Rica.

5. Denmark.

6. Netherlands.

7. Persia.

8. Peru.

9. Poland.

10. Sweden.

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**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 31-7-1941, prescribes the following Regulations for the preservation*

*and inspection of Wills, under Section 294 of the Indian Secession Act, 1925.*

**1. Preservation and custody by District Judge granting Probate or letter.--**

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.

**2. Fire-proof box to be provided.--**

For the preservation of such Wills each District will 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 respects.

**3. Action to be taken before depositing the will in the box.--**

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 whim 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.

**4. Register of deposited Wills, Index.--**

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

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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 under the

seal and signature of the District Judge.

**9. Application for inspection of copies to be placed on record and noted in the**

**register of wills.--**

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 on

19------, or, "copy given to", as the case may be.

**10. Fees realized how to be credited. Expenses how to be met.--**

All fees other than copying fees realised in cash under these regulations should

forthwith be credited into the Treasury under the head **#**[1200000-Receipts from

Administration and Other Functions; 1230000-Law & Order Receipts; 1231000-

Justice; 1231002-Justice Court Fees realised in cash (73)]. 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.

**11. Foregoing rules also apply to High Court granting probate or letters.--**

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 Lahore High Court,

Lahore.

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PART B -- KEYS OF WILL SAFES

**1. Inconvenience and expenses resulting from loss of keys.--** 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-Judl.,

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 changes of District

Judges have taken place. Much inconvenience has resulted, and the Government

has been put to considerable expense.

**2. District Judge on transfer should make over the keys and Treasurer's receipt**

**for duplicate to his successor.--** 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.

**3. Duty of the District Judge to take over charge of the keys.--** 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.

**4. Loss of keys should be reported to High Court.--** If a key is lost the fact should

at once be reported to the High Court with a full explanation of the circumstances.

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**CHAPTER 8**

**CIVIL COURTS ACCOUNTS**

PART A -- GENERAL

**1. Responsibility of Judicial Officers for supervision --**

The institution of the Director General Audit, Punjab does not relieve officers of the

duty of supervising Nazirs, cashiers, or other clerks in regard to their fiduciary duties

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 responsible for the due performance by them of

these duties.

**#[2. Personal responsibility of officers for loss caused by negligence of law**

**and rules, or supervision.--**

Rule 2.33 of Punjab Financial Rules, Volume I (Financial Hand Book NO. II) is reproduced

for general information:-

"2.33. Every Government servant should realise 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. (See rule 2.10(a)(1). A memorandum regarding (1) general principles

to regulate the enforcement of responsibility for losses sustained by Government

through fraud or negligence of individuals, (2) the procedure to be followed in

prosecutions in respect of the embezzlement of Government money and (3) the

procedure to be observed for conducting departmental enquiry is given in Part 1 of

Appendix 2 to these rules."]

**3. Periodical inspection of accounts: Instructions re pecuniary transactions.--**

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

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a court (whether civil or criminal) is further required to have all pecuniary

transactions conducted under his personal direction and attested by himself.

**Note:-**

For rules affecting the Nazarat under the control of the District Magistrate, see

Chapter 10, Punjab District Office Manual.

**4. Checking of registers relating to pecuniary transactions by the presiding**

**officers.--**

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.

**5. Special attention towards state of registers and accounts of Nazirs.--**

The state of the registers and accounts of Nazirs, etc., should receive special notice

in the reports of inspecting officers.

**6. Pecuniary transactions with litigants should be taken up thrice a day.--**

(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 pecuniary transactions.

(b). **Public notice as to monetary transactions in Court.--** Notices in English and

**#**[Urdu] 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

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(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.

**7. Postal Money orders. Money received during leave or absence of the**

**presiding officer.--**

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 to money 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.

**8. Daily checking of Cash-books.--**

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 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:-

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PART B -- AUDIT

**1. Annual Audit.--** The Sheriffs Petty Accounts, the Civil Court Deposit Accounts

(cash system), the Copy Agency Accounts (District and Sessions Judges' Courts and

Court 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

**\***[Director General Audit, Punjab.]

**2. Papers to be placed at the disposal of Auditors.--** 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.

**3**. **Audit note to be sent to Court concerned and higher officers.--** 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.

**4. Prompt attention to Audit notes.--** Presiding Officers of Courts, the Senior Civil-

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 **\***[Director General Audit, Punjab]

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 **\***[observation] statement which accompanies

the audit and inspection note should, after the **\***[observation] recorded therein have

been replied to, be kept and put up before the auditors at their next visit.

**5. Inquiry embezzlement, loss of property, etc: Report to Accountant-General:**

**Final report to High Court.--** (a) Whenever an embezzlement, loss of property,

fraud, or grave irregularity likely to lead thereto, is discovered, enquiries shall be

instituted at once by the Presiding Officer of the Court and at the same time a report

made to the High Court through the immediate controlling officer, if any, and the

District and Sessions Judge.

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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 **\***[Rule 2.34 read with annexure of Chapter 2, Punjab Financial Rules,]

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 or irregularities.

(8) The prospects of recovery of the loss.

**\***[Rules 2.33, 2.34 and 2.35 of the Punjab Financial Rules Volume I, as well the

annexure and memoranda issued under these Rules shall be carefully followed. The

Rules are reproduced in the Appendix to this chapter.]

**6. Irregularities: Refund of money kept out of account not allowed.--** Experience

has shown that presiding officers frequently fail to take any effective action when

irregularities are brought to their notice. There must be a complete investigation

of every complaint made to a presiding officer. *In no case may a subordinate*

*official be allowed to refund money* which has been

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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.

**7. Destruction of records relating to audit.--** No records or documents filed in any

Courts' accounts should be destroyed till a period of **\***[two] years has elapsed since

they were last audited, and if at the last 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 **\***[two] years has elapsed since the removal of the objection

originally raised.

This does not apply to those records which under the rules of the Court form part of a

case and are filed with the Court.

APPENDIX

*2.33.* Every Government servant should realise 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. (See rule 210 (a) (1). A memorandum regarding (1) general principles

to regulate the enforcement of responsibility for losses sustained by Government

through fraud or negligence of individuals, (2) the procedure to be followed in

prosecutions in respect of the embezzlement of Government money and (3) the

procedure to be observed for conducting departmental enquiry is given in Part 1 of

Appendix 2 to these rules.

*2.34.* The instructions for reporting to Accountant-General or the Director Audit &

Accounts (Works) defalcations and losses and remissions of and abandonment of

claims to, revenue,--(vide rule 4.6) are contained in the Annexure to this Chapter.

The directions issued by the Auditor-General of Pakistan regulating the exhibition of

losses in Government accounts are given in Chapter 6 of Account Code, Volume I.

*2.35.* (1) The preliminary report prescribed by the rules in the Annexure to

this Chapter notifying the occurrence of a defalcation or loss of

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public money in a treasury should be submitted by the Deputy Commissioner

concerned to--

(i) the Accountant-General direct;

(ii) the Government unless the case is unimportant; and

(iii) The Head of the Department through the controlling officer.

With regard to the final complete report which is also required by the orders, the

Deputy Commissioner should submit his report to controlling officer who will forward

it to the Accountant General for submission to Government through the Head of the

Department.

(2) Losses occurring in offices, as soon as they occur or come to notice, should be at

once reported, through the immediate departmental superior of the Government

servant reporting the loss, to the Head of the Department concerned, with a

statement of the steps taken in matter. When the matter has been fully inquired into a

further and complete report should be submitted of the nature and extent of the loss

showing the errors or neglect of rules by which such loss was rendered possible and

the prospects of effecting a recovery. The report on a loss occurring in the office of a

Head of a Department may be submitted direct to Government. It is always open to a

Head of a Department to obtain the advice or opinion of the Accountant-General

Director Audit and Accounts (Works) on any loss occurring in his own office or in an

office under his control if it is likely to be of use in preventing their occurrence in

future.

(3) Rules dealing with losses and defalcation in stamp revenue, are contained in the

Punjab Stamps Losses and Defalcations Rules, 1935 reproduced in Part II of

Appendix 2.

(4) In regard to any loss of money belonging to a municipality, small town committee

or notified area it should be reported by the President or the

Executive Officer where such an officer has been appointed direct to the Deputy

Commissioner and to the Director, Local Fund Audit. Intimation may also be

sent at the discretion of the Deputy Commissioner to the Commissioner of the

Divisions who shall, if he deems it necessary, submit a complete report to

Government showing the total sum of money misappropriated, the method in

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which the embezzlement was effected and the steps taken to recover the money and

punish the offenders.

Losses occurring in the funds of Zilla Council should be reported by the Chairman to

the Director Local Fund Audit and also through the Deputy Commissioner to the

Commissioner.

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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.

**1. Money paid under section 31 of the Act to be deposited in the Treasury.--**

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.

**2. Register of such deposits to be maintained.--** 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.

**3. Contents of the register.--** 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,

**4. Procedure for disposal of money deposited.--** After the deposits are made and

brought on the register, the Courts shall proceed to take action in regard to the

investment or disposal of money deposited in accordance with the instruction

contained in sections 32, 33 and 34 of the Land Acquisition Act.

**5. Account to be opened when money is invested otherwise than in the**

**purchase of land.--** When the money is invested otherwise than in the purchase of

land an account in the ledger form should also be opened for the person on whose

behalf the money is invested to show payment of interest and final disposal.

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PART D -- SHERIFFS' PETTY ACCOUNTS

SECTION I -- System of Accounts

**1. Items included.--** Sheriffs' Petty Accounts relate to sums received by Officers-incharge

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.

**2. Accounts to be sent to Treasury daily and at the close of the month.--** 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 35)]. 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.

**3. Registers.--** (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 principal registers of receipts and of

disbursement known as "Register of Receipts" and "Register of Disbursements".

There is also a "Cash Book".

(b) **How entries in the Register of Receipts are to be made. Progressive totals**

**and balances.--** 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 as

they occur, i.e., the number of receipts issued should be serially noted in column 2

of the register. Whenever any entry of disbursement

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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."

(c) **Progressive totals of payments.--** Similarly, the "Register of Disbursements" is

complete and should be confined to a daily record of payments to entitled payees.

The daily entries should be totalled up and the progressive totals of daily payments

should also be made beneath the daily total till the end of the month.

(d) **Cash Book.--** (i) The daily entries of receipts in the "Registrar 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.

(ii) **Entries in Cash Book of payments into and withdrawals from Treasury.--**

When the amount is paid into the Treasury 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 "Officer-in-charge".

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(iii) **Comparison of Cash Book with Treasury Pass Book.--** 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.

**4. Duties of the Officers-in-charge.--** The principal financial duties of the Officer-incharge

of an agency may be briefly summarised:-

(i) to see that all sums received are brought to account 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. Personal Ledger Account in the Treasury.--** In respect of the balance 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.

**6. Proper forms and registers to be maintained.--** 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.

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.

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**7. Money orders Intermediate Register.--** 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

"Registers 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**

**\*[8. Classes of Agencies.--** There are three classes of agencies which are required

to maintain Sheriffs' Petty Accounts. The office maintaining these accounts is usually

known as the Nizarat. The three classes are as follows:-

(i) The principal process serving agency at the Headquarters of the district. This

deals with processes received from Civil and Criminal Courts. This agency is under

the control of the Senior Civil Judge or the Administrative Civil Judge in the district in

which the latter officer has been appointed. It will be referred to as Senior Civil

Judge's agency.

(ii) The Small Cause Court's agency which is under the control of the Judge of the

Small Cause Court.

(iii) Agencies at outlying stations which are under the charge of a Civil Judge.

**9. Civil Nazir.--** The agencies of Senior Civil Judge and Small Cause Court's Judge

are in the charge of respective Civil Nazirs who receive cash and make payments. In

outlying stations these duties are performed by a Naib Nazir. For the sake of

simplicity these officers concerned will be referred to in these Rules as the Nazir.

**10. Control over agencies. Delegation of duties.--** The principal Judicial Officer

incharge of the agency, mentioned in paragraph 8, is

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responsible for the prompt and efficient service of all processes received in the

agency. The Senior Civil Judge/Administrative Civil Judge or the Judge Small Cause

Court, Lahore, may under special permission from the High Court delegate certain of

his administrative duties either to a Civil Judge or to the Registrar. The order of

delegation should state exactly what duties have been delegated. In such cases,

however, they will still remain responsible for the general supervision. The officer

incharge of the out-lying agency shall in no case delegate his duties.]

**11. Security.-- \***[(a) The Chief Justice has been pleased to direct that the following

officials shall, on appointment, furnish security to the satisfaction of the District &

Sessions Judge, Senior Civil Judge or the Judge Small Cause Court, Lahore to

which they are attached in the sum of rupees specified below against each official:-

Civil Nazir (Senior Civil Judge's agency). Rs. 30,000/-

Nazir, Cashier (Small Cause Court's agency). Rs. 30,000/-

Naib-Nazir (District Judges, Rs. 10,000/- Senior Civil Judges' and Small Cause

Court's agencies and other agencies including Civil Judges' Courts at stations where

there is a treasury or sub-treasury).

Naib Nazir (agencies at stations Rs. 10,000/- where there is no treasury or subtreasury

including Courts of Civil Judges so located).

Execution Bailiff .. .. Rs. 5,000/-

**Note:-** Process-servers are not required to furnish security; they, however, are not

permitted to have more than Rs. 200/- in hand at any time as provided in rule 20

under Section IV of these rules].

(b) **Duties of Civil Nazir.--** 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 Civil Judge or Administrative Civil Judge;

(ii) to arrange for the distribution of processes among process-servers and the

transmission of processes to agencies located at tehsils;

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(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.

**12. Inspection of accounts by inspecting officers.--** 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**

**13. Applications for deposit: How to be dealt with.--** When an application

involving a deposit in the Sheriffs' 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, in order to enable

the process-serving [Naib Nazir] to make the necessary entry in the "Register of

Receipts" **\***[(See Form No.5)]. After the usual orders have been passed and recorded

by the Court, the applicant shall tender the amount of his deposit together with the

application to the Nazir who will fill in columns 1 to 7 of the "Register of Receipts,"

prepare a "Receipt" 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-incharge.

**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

travelling expenses and (3) the amount deposited for diet-money or subsistence

allowance; and these details must be copied into the "Register of Receipts".

**14. Applications for deposit: How to be dealt with.--** After the serial number of the

"Register of Receipts" has been noted on the application by the Naib Nazir 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 Naib Nazir and produced for audit.

**15. Procedure when a Court is far from the Court of Senior Civil Judge.--** When

the Court of a Civil Judge is situated at such a distance from the Senior Civil Judge's

Court as to render the frequent transmission of applications to the

Nazir inconvenient, the Senior Civil Judge or administrative Civil Judge may

direct that both applications and money should be received by

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an official of the Civil Judge's Court and a receipt in foil and counterfoil 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 Naib Nazir 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 concerned.

**Note:-** Column 2 of the receipt foil will be blank in these cases.

**16. Processes for service within the district to be sent to Nazir.--** All processes

issued by Courts for service within the district should be sent to the Nazir and should

contain a reference to the amount deposited with the Naib Nazir.

**17. Processes for service in another district.--** Processes issued by a Court for

service in another district will be made over to the Nazir by the issuing Court for entry

in the "Register of Processes received and disposed of by the Nazir" **\***[(See Form No.

6)] and transmission to the Senior Civil Judge or Administrative Civil Judge of the

district in which the person to be served resides. The amount deposited with the

**\***[Nazir] on account of subsistence and other expenses as noted on the original and

duplicate copy of the process will be transmitted by the **\***[Naib Nazir] by postal money

order to the Senior Civil Judge or Administrative Civil Judge of the district in which

service is to be effected. The cost of the postal money order being borne by the party

at whose instance the process is issued. The Senior Civil 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. Steps to get back money if process not served.--** 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 Nazir 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.

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**Note 1.-** Periodical checking of the register to ensure that all sums re unserved

processes have been duly received and accounted for.-- 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 received and

disposed of by the Nazir" should, in the case of the agencies of the District Judge,

the Senior Civil Judge, and the Judge, Small Cause Court, be checked monthly by

clerks of courts and quarterly by the Officer-in-charge; and monthly by the Presiding

Officers of court 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. The result of

these checks should be recorded in the following form:-

"Certified that I have personally checked the entries in the "Register of processes

Month of------

received and disposed of by the Nazir" for the ------------------ and am satisfied that

quarter ending------

all sums in respect of unserved processes have been duly received and correctly

accounted for except as follows:-"

**Note 2.-** Processes received for service from other districts to be entered in register

"Tamil Zillah Ghair."--Processes received for service from other districts are entered

in the "Register of miscellaneous proceedings, etc., received from other districts and

courts," commonly known as the "Tamil Zillah Ghair", and should not be entered in

the "Register of processes received and disposed of by the Nazir."

**19. Service of processes within the jurisdiction of Nazirs.--** Processes issued by

a Court sitting at the headquarters 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 Nazir

in charge of the process-serving agency. The Nazir will thereupon 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**

**20. Procedure when processes and money are delivered to process-servers.--**

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 be entered in the "Register of processes received and

disposed of by the Nazir".

(b) Payment to process-server should be entered in the appropriate column of the

"Register of Receipts" against each sum.

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(c) Payment entries should be made in the "Register of Disbursements" and the

process-server's acknowledgment of receipt in column 11.

(d) Details of each sum should be entered in the "Process-server's Note-Book".

No process-server should have more than Rs. **\***[200] in hand at any one time.

**21. Payment of diet-money to witnesses by process-servers.--** When a Processserver

pays the 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 copy of the

process on which service is endorsed. The payee's acknowledgment should be

verified by one or more respectable witnesses, the date and signature of the serving

officer being added. This rule may, however, be relaxed in the case of literate

persons who can write and sign the acknowledgments but to minimise the risk of

misappropriation the courts concerned should ascertain before proceeding with the

cases that the witnesses appearing before them are the persons whom the dietmoney

has been actually paid. In the case of illiterate persons the thumb-marks

should invariably be attested as provided in this rule.

**22. Procedure when processes are returned served by the process-server.--**

The processes whether served or not will be returned to the Nazir. If the service is

effected and the money connected therewith paid to the payee, the Nazir shall verify

the service with the acknowledgment of the payee given in column 8 of the processserver'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 Nazir".

**23. Procedure when processes are returned unserved.--** In the case of nonservice,

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 Disbursements" and noted in column 10 of the process-server's note-book,

column 11 of which should also be signed by the agent in acknowledgment of

the money having been received back from the process193

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 Nazir."

**Note 1.-** Checking of process-servers' note-book.-- With a view to seeing that rules

20 to 23 are complied with, the process-servers' note-books should, in the case of

the agencies of the District Judge, the Senior Civil Judge, and the Small Cause

Court, be checked monthly by the Superintendent and quarterly by the Officer-incharge;

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 result of these checks should be

recorded in the following form:-

"Certified that I have personally checked the accounts for the month of/quarter

ending and am satisfied that they are correct and in order except as follows:-"

**Note 2.** Nazir to see that money is duly accounted for in the case of unserved

processes.-- When unserved processes are returned to the Nazir it shall be the duty

of the latter to see that the undisbursed diet-money remitted with the processes is

also returned to him and entered in the "Register of Receipts."

**SECTION V -- Transmission of processes, and money between agencies**

**24. Processes sent by one agent to another in the same district.--** 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 tehsil in the district will be made over to the Naib Nazir at the place

where the Court issuing the process sits and such Naib Nazir 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 Naib Nazir 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 Nazir."

**25. Processes sent by one agency to another in the same district.--** Processes

received by one agency from another in the same district will invariably be returned

direct to the Naib Nazir from whom they were received, and he will return them to the

Court concerned.

**26. Amount to be sent by money order.--** The amount to accompany a process

transmitted under rule 24 will, after making the usual

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entries in the "Register of Receipts" and the "Register of Disbursements" be sent by

postal money order to the Naib Nazir 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-incharge

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 Naib Nazir after carrying out the

procedure detailed in rule 20 (b), (c) and (d) under Section IV shall cause the process

to be served and the amount disbursed to the payee in the same manner as if the

process had been issued by one of the Courts of his own agency.

**Note 1.-** Processes received from other tehsils should be entered in register "Tamil

Zillah Ghair".-- Processes received from other tehsils should be entered in the

"Register of processes received and disposed of by the Nazir" kept by him; they are

entered in the "Register of miscellaneous proceedings, etc., received from other

districts and courts," commonly known as the "Tamil Zillah Ghair".

**Note 2.-** Duty of Officer-in-charge to see that money received is brought on to

Receipt Register.-- The Officer-in-charge (as defined in rule 8 under Section II) of the

receiving agency must satisfy himself that all amounts accompanying a process

transmitted under this rule have been brought on to the "Register of Receipts".

**27. Procedure in case of non-service.--** In the case of non-service the amount (less

money order commission) will be returned by postal money order to the Officer-incharge

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 "Register 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"

**28. Certificate of service or non-service.--** The Naib Nazir to whom a process is

sent for service will invariably return the same, with a certificate of service or nonservice,

as the case may be, duly endorsed thereon and signed by the Officer-in-

Charge, to the Naib Nazir from whom he received the process,

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and the latter will thereupon fill in columns 12 and 13 of the "Register of process

received and disposed of by the Nazir" and then forward the process to the Court

which issued it.

**Note:-** The certificate of service or non-service should be signed by the Officer-incharge

after satisfying himself of the correctness of the certificate.

**SECTION VI -- Refund of deposits**

**29. Refund of deposits: Payment order. Undisbursed diet-money to be sent by**

**money orders.--** 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 Nazir,

who, after taking the payee's acknowledgment 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"

Provided that when the amount of a payment exceeds Rs. 100, it should be made in

the presence of the Presiding Officer, who should satisfy himself as to the identity of

the person claiming the amount.

**Note 1:**- In accordance with Punjab Government letters No.3679-S. (Home-Judl.),

dated the 3rd August, 1931 and No.4953-J-39/2760, dated the 24th August, 1939,

and Chief Commissioner, 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 judgment 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 witness have in all cases, where necessary, been refunded to the

depositors. The Record Keeper should not 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 case of

substituted service.

**30.** Deposits claimed on behalf of a deceased depositor may be paid by the court

without the production of the usual legal authority after such enquiry into the right and

title of the claimant as may be deemed sufficient. In

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cases of doubt as to the identity of the claimant and his title to the money, the court

should insist on a succession certificate or other authority from a court acting under

the Succession Act.

**31. Payment order: Renewal and lapsing.--** The Court's payment order referred to

in 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 receive payment, revalidate the

order by the following endorsement:-

Renewed\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signed\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dated\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The fact and date of renewal should be noted on the original departmental record of

the Court. These payment orders will be kept in a guard file for audit purposes.

**SECTION VII -- Daily supervision of accounts**

**32. Daily checking of the entries in the Receipt Register.--** 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 receipts issued and, after

satisfying himself of their correctness, should set his initials against each entry in

column 8 of the "Register of Receipts"

**33. Daily attestation of entries by Officer-in-charge: Certificate as to**

**correctness of accounts for the period when officer was absent.--** All entries of

receipts in "Register of Receipts" and of payments in "Register of Disbursements"

and in the payment column of the register 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, he 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.

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**34. Money order coupons and payees' postal receipts to be kept in guard file**

**and reference to their number given in proper registers.--** Payee's receipts

received through the post office for amounts sent by money orders under 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 file inserted in column 6 of the "Register of Receipts".

**SECTION VIII -- Dealing with the Treasury**

**35. Remittances to Treasury. Documents to accompany.--** Whenever during the

month the sum in the hand of the Naib Nazir at the headquarters of a district is

**\***[Rs.500] or more and that of a Tahsil Naib Nazir is **\***[Rs. 260] or more, the surplus

over **\***[Rs. 400] and **\***[Rs. 200], 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 **\***[(Form No.9 stereo

A and T.T.M.No. 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 ----------

At the end of the month the entire amount in the hand of the Naib Nazir will also be

remitted into the treasury or sub-treasury in accordance with the procedure indicated

above.

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**36. Withdrawals from Treasury.--** 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 alongwith the treasury pass book

which will be returned to the agency after noting 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.

**37. Transactions with Treasury to be entered only in Cash Book.--** 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 deplete or increase the amount in the hand of the Nazir.

These transactions will be shown in the manner prescribed in rule 3 (d) (ii).

**38. Duty of Officer-in-charge.--** 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 Treasury 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-incharge

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**

**39. Personal Ledger and Pass Book.--** The Treasury will maintain a Personal

Ledger Account in form [TA-20 of Account Code, Volume II in the name of each

agency dealing with it and will supply the agency with a "Pass

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Book". The Pass Book should be sent monthly to the Treasury Officer, for verification

of the balance shown in it.

**40. Entries of gross receipts and gross payments in Ledger and Cash Book--**(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 35 shall be entered in

the receipt and payment columns, respectively, of the Personal 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".

(b) **Entries to be made when amount is withdrawn.--** In the case of payments

made from the 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.

(c) **Reconciling difference between the balances as shown in the Treasury's**

**and Accountant's balance sheets.--** As, however, in the case of the intermediate

remittances described in rule **\***[35] 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 show these balances in the balance sheet until the

entry is cancelled by a corresponding credit at the treasury at the end of the month.

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**41. Deduction of lapsed deposits.--** In addition to the gross receipts and gross

payments as indicated in rule **\***[40] the other entry in the treasury account will be the

annual deduction of lapsed deposits as reported by the Naib Nazir, the adjustment of

which shall be made in the office of the Accountant-General by credit to the Head

**\***[1300000-Miscellaneous Receipts; 1390000- Others; 1391000- Other Receipts;

1391001- Unclaimed Deposits]. The Treasury Officer will simply reduce the balance

of the personal ledger account.

**42. Comparison of balances in the books of the agent and the Treasury Pass**

**Book.--** 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.

**43. Working out balance: List of unrefunded lapsed items.--** 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 show 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 Receipts" 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 of Disbursements"

(plus lapsed items which will appear in June only)

Closing balance

Details ----------

Balance as per "Treasury Pass Book"

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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 to 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".

**44. Physical verification of balance in the hands of the Nazir.--** 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 to-day counted the cash in the hand of the Nazir under the Head

"Sheriffs' Petty Accounts" and find that it amounts to Rs.-------- as shown in the Cash

Book."

This verification should not only be made monthly, but surprise 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.

**45. Monthly comparison of Nazir's balance with Treasury Pass Book.**

**Certificate. Report to superior officers to be made in case of discrepancy not**

**being reconciled.--** 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 to-day 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

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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.

**46. Difficulties in the working of accounts to be reported to higher authorities.--**

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**

**\*[47. Deposits to lapse after three years.--** Notwithstanding the provisions of rule

12.7 of The Punjab Financial Rules Volume I and Article 127 of Account Code

Volume II, all claims on account of Sheriffs' Petty Accounts irrespective of their

amounts will remain current for three complete account years and lapse to

Government only on the expiry of that period.

**48. Statement of lapsed items to be prepared and sent to Treasury Officer at**

**the end of June.--** (a) The Officer-in-charge of an agency shall prepare a list of

lapsed items under the rules of Government in Form TA 49 referred to in Article 127

of Account Code Volume II, on 30th June each year and strike them off from the

Register of Receipts on the last day of the financial year i.e. 30th June, 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 3 under section 1) and as worked out in the

memorandum prescribed in paragraph 43 under Section X. This statement should be

submitted to the Treasury Officer on the last working day of June for adjustment

under paragraph 41 under Section IX.]

(b) **Certificate by Officer-in-charge on the statement.--** The Officer-in-charge of an

agency shall record on the statement a certificate to the

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effect that all amounts due to lapse to Government have been included in the

statement.

(c) **One copy of the statement to be kept for audit.--** One copy of the statement of

lapsed items should be kept with the agency for audit on the spot by the Director-

General Audit, Punjab.

(d) **Reducing of balance by Treasury Officer.--** 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 June.

**\*[49. Report re lapsed items.--** The deposits which have lapsed and have been so

credited to Government cannot be re-paid if subsequently claimed, without the

sanction of the Accountant General, Punjab, as required by rule 4.130 of the

Treasury and Subsidiary Treasury Rules.

The application for sanction will be made in Form STR 42. There should be a specific

application, for deposits repayable to each person and it will be used as the voucher

on which the payment is to be made and submitted to the Accountant General with

the list of payments in which it is charged.]

**SECTION XIII -- Miscellaneous**

**50. Diet-money of Government servants appearing as witnesses.--** Diet-money

(i.e., subsistence allowance levied in accordance with Chapter 5-C of Volume I and

Chapter 9A of Volume III of the Rules and Orders) deposited in these accounts under

rule 9 of these rules in respect of Government servants appearing as witnesses in

Civil and Criminal cases will not be paid to them, but will be credited in the Treasury

under the Head **\***[1200000-Receipts from Civil Administration and other functions;

1230000- Law and Order Receipts; 1231000-Justice; 1231800-Others.] Similarly, all

sums deposited for travelling expenses in respect of those 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 **\***[Federal Government] or a **\***[Pakistan Railway,] or

any other commercial department of Government, however, sums

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deposited for diet-money will be credited in the Treasury to the credit of the

Government concerned, i.e., **\***[Pakistan Railway] or any other Commercial

Department of Government, as the case may be, and to enable this to be done, 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.

**Note:-** Duty of Reader to inform Nazir when evidence of a Government servant has

been recorded. Certificate by reader. Duty of Record-Keeper.-- The reader of the

court concerned should give timely information to the Civil Nazir that the statement of

the government servant appearing as a witness has been duly recorded, 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 government servants, 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.

**51. Commission fees to Government Servants.--** The acceptance of commission

fees by Government servants is governed by rule 5.58 of the Civil Services Rules

(Punjab), Volume I, Part I, and by Supplementary Rule 12.

**52. Forms of Receipts.--** 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.

**53. Custody and issue and checking of Receipt Books and Cheque Books.--**

"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 Receipt

forms in each book should, when received, be checked and a certificate to this effect

recorded on the cover of each copy.

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**54. Each page of register and account book to be paged and sealed and**

**number of pages to be counted.--** 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.

**SHERIFFS' PETTY ACCOUNTS RULES**

**SCHEDULE A**

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 newspapers 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**

**SCHEDULE B**

List and specimens of registers and forms to be maintained or used in Sheriffs' Petty

Accounts.

(1) Register of Receipts.

(2) Register of Disbursements.

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(3) Cash Book.

(4) Treasury Pass Book.

(5) Receipt Form.

(6) Register of processes received and disposed of by the Nazir.

(7) Note-book of process-server.

(8) Payment Order Form.

(9) Challan Form.

(10) Cheque Form.

(11) Form No. T.A. 49

(12) Form No. S.T.R. 42

(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 Sheriffs' Petty Accounts will also be included in it.)

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PART E -- CIVIL COURT DEPOSIT ACCOUNTS

**SECTION A -- GENERAL**

**#[1. Amount included.-** Civil Court deposits consist of sums which are either paid

into Court or paid into District Accounts Office of each District 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 rule 12.7 of the Punjab Financial Rules Volume I read with Article

127 of Account Code Volume II. 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.]

**2. Cash and voucher systems.-** 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.

**3. Bailiffs' note-books and their checking.-** 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 realised 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 Urdu.

**Note:-** The note-books of execution bailiffs will be checked as laid down in note 1 to

rule 23 of the Sheriffs' Petty Accounts Rules with the modification that such checks

will be performed monthly by the Superintendents and quarterly by the Presiding

Officers in the case of accounts maintained in Courts of District Judge and Senior

Civil 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.

**4. Particulars of the warrant to be entered in Bailiff's note-book.-** 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.

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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. Stamp on receipts.-** If the amount to be receipted and the payment voucher

exceeds Rs. 20 the claimant will be required to affix revenue stamp of the following

denomination:-

Amount. Stamp

(i) Rs. 21 to Rs. 100 Paisa 15

(ii) Rs. 101 to Rs. 2000 Paisa 50

(iii) Rs. 2001 to Rs. 10,000 Re. 1

(iv) Rs. 10,001/- and above Rs. 2/-.]

**6. Separate ledger for Courts mentioned in Section B.-** 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.

**7. Initial deposit by applicant in Insolvency cases.-** Under rule 46 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.

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. Separate accounts for each Court.-** 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.

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**9. "Nazir" defined.-** The term "Nazir" in these rules includes a Cashier and a Naib-

Nazir.

**10. Money orders.-** 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 or other ministerial officers to sign therm.

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 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 B- THE CASH SYSTEM**

**#[11. Courts following Cash System.-** The provisions contained in rule 12.14 of the

Punjab Financial Rules Volume I and appendix 22 thereunder regulate the deposits

by the Courts of Small Causes, the repayment and the maintenance of various

registers and returns by such court. These are reproduced below:-

"12.14 All deposits are paid into and held at the court, when, however, the sum in

possession of the court exceeds Rs. 1,000 the excess amount is at once remitted to

the Government treasury. All repayments are made by the court itself without the

intervention of the Treasury Officer out of the balance held by it. If, however, the

balance is not sufficient to meet the claims, the repayment is made by cheques on

the Treasury Officer against the surplus collections remitted to the treasury.

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All transactions of receipts and payments are brought to account by the court

concerned in the registers of receipts and repayments maintained by it.

The gross receipts and repayments, are reported by the courts concerned from time

to time, vide Appendix 22 (including repayments by cheques at the treasury) are

taken by the Treasury Officer to the personal deposit account opened separately for

each court. These personal ledgers and the corresponding accounts and returns

must be kept by the Treasury Officers in the form prescribed for personal deposits,

but quite separate from those of personal deposits proper, being designated as "Civil

Courts' Deposits".

Each court submits to the Treasury Officer monthly returns (i.e. extract registers of

deposits receipts and repayments with vouchers duly stamped where necessary and

plus and minus memorandum), quarterly certificate, clearance register and statement

of lapses, etc. These returns are transmitted in original by the Treasury Officer to the

Accountant General.

Note:- For detailed instructions for the maintenance of Deposit Accounts of these

courts see Appendix 22.

**APPENDIX 22**

(Referred to in Rules, 12.14 and the Note thereunder)

Detailed rules for the maintenance of Deposit Accounts of Courts of Small Causes.

1. A register shall be kept up at the Court in Form T.A. 20 of all deposits paid into the

Court.

2. All payments made from these deposits shall be entered in a separate Register

(Form T.A. 21) and also in the appropriate column of the Register of Receipts (Form

T.A. 20).

Each transaction of a receipt or payment should be initialled by the Registrar

appointed under section 12 of the Provincial Small Cause Courts Act, 1887 (IX of

1887).

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3. Payments shall be made by the Court to the claimants entitled thereto from the

sums brought to credit in the Register of Receipts mentioned in Rule 2 without the

intervention of the Treasury Officer except under the special circumstances

described in Rule 5 below.

4. Whenever the sum in possession of the Court is in excess of Rs. 1,000, such

excess shall at once be remitted to the Treasury accompanied by a challan, which

should show the gross receipts, and the payments made under Rule 3, since the last

surplus was remitted, and the surplus collections then remitted with the challan,

which will be returned to the Court receipted by the Treasury Officer.

5. If at any time the claim of a creditor before the Court shall exceed the balance held

by it, the Court shall issue a cheque (Form S.T.R. 41) for such claim on the Treasury

Officer against the surplus collections remitted to the Treasury.

6. On the fixed "latest date" each month, each Court should close its Deposit

Registers for the month, and enter subsequent transactions in the same Register

with those of the next month. In June the fixed "latest date" will be the 30th. In others,

such a date will be fixed by the Deputy Commissioner as will secure the inclusion of

each month's transactions in the Headquarters Treasury Accounts for the month.

7. On the "latest date" each Court should, without fail, report to the Treasury Officer

the receipts and the payments made under Rule 3 which may have taken place since

the last surplus balance was remitted to the Treasury, and furnish him with a certified

Memo of the closing balance in the hands of the Court. If any surplus balance is to be

remitted on that date, the certified Memo of the closing balance should be attached to

the challan, the other information being given on the challan itself.

8. The gross receipts and payments on account of Civil Court Deposits, as reported

by the Courts from time to time in their challans and in the Memo. sent to

the Treasury as directed in Rule 7, together with the payments made on cheques

by the Treasury Officer under Rule 5, should be brought on the books of the

Treasury Officer and accounts kept in the form prescribed for Personal

Deposits (Form T.A. 22), which should be designated

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(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. Registers and Forms.-** 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 of 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.

**Receipt of Deposits**

**14. Application for deposit.-** 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 "Receipt" 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.

**Note:-** Entries of deposits in the "Register of Receipts" will be numbered in a

separate series for each financial year.

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**15. Deposits by Bailiffs and Court Auctioneers.-** 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 show the deposit as made on behalf of the judgment-debtor.

Receipts granted to bailiffs will be pasted in their note-books.

**16. Deposit by cheque or Remittance Transfer Receipts.-** When a deposit is

made through the post by cheque issued by Government Departments or by

remittance transfer receipts, the accompanying letter will be treated as the

application, and the "Receipt" will be sent 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.

**17. Deposit by money order.-** 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.

**18. Deposits in case of prohibitory orders against salaries of government and**

**Railway servants.-** 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 of office must pay the amount to the Court in cash or

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remit it by postal money order in the manner laid down in (i) 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.

**Payments**

**19. Entry of payments.-** All payments made from these deposits shall be entered in

the "Register of Disbursements" and also in the appropriate column of the "Register

of Receipts"

**20. Mode of cash repayment.-** 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.

**21. Responsibility of Presiding Officer about repayments.-** 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.

**22. Repayments by cheques.-** 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:-

"Paid by cheque No. , dated .'

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**23. Repayments to be entered in proper registers.-** 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.

**24. Instructions to be followed when authorising payment.-** When authorising

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 summarised 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 Urdu 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 Urdu 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.

**25. Voucher for cash payment to be stamped "paid."--**All vouchers paid by the

Nazir out of receipts shall be stamped "paid" by himself.

**26. Repayment by transfer credit.-** In the case of repayments to be made by

transfer credit to Government account, cheques will be prepared in the manner laid

down in the 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 Article 26, Civil Account Code, Volume I, which

runs "When a public officer sends a cheque to a

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Treasury not for cash payment, but for credit of its amount in the Treasury accounts,

he must, before endorsing the same, add the words `Received payment by transfer

credit to----------------'. Omission to do this facilitates fraudulent appropriation of

money."

The particular head in the Government accounts to which the credit is to be afforded

by transfer will be noted both in the "Register of Receipts" and in the "Register of

Disbursements".

**Transactions with the Treasury**

**27. Surplus money to be sent to Treasury by post.-** Whenever the amount of

deposit in possession of the Court, other than the Court of Small Causes at Lahore,

is in excess of **#**[Rs.1000] by Rs.10 or more; such excess shall at once be remitted to

the Treasury by postal money order, commission being charged to contingencies for

which a small advance will be made to the Court by the Senior Civil Judge out of the

payment advance sanctioned for him under **#**[Rule 2.8 Punjab Financial Rules,

Volume I.] A memorandum in the form prescribed in rule 34 of the Sheriffs' Petty

Account Rules with a challan (Stereo A and T form No. 192) in duplicate shall be

despatched by post to the treasury officer who shall sign it and return one copy of the

challan to the Court. The number and date of the challan should be noted on the

money order coupon by which money is remitted.

**28. Surplus money to be sent to Treasury by post.-** The same procedure shall be

adopted in the cases of the Court of Small Causes at Lahore, except that deposits in

excess of Rs. 1,000 will be remitted to the treasury, but not by money order.

**29. Remittance to Treasury by cheque or Remittance Transfer Receipt.- When** a

deposit is made by cheque issued by Government Departments, or by R.T.R., under

rule 16, this should be sent to the Treasury in the manner provided for the remittance

of surplus balances in Rules 27 and 28, and will be shown as such in the "Cash

Book."

**29-A. Balance to be credited in Treasury at the end of the month.-** The balance

in the hand of the Nazir at the end of the month should be remitted to the treasury

so that it may be included in the treasury accounts for that month with a memo. as

prescribed in the Sheriffs' Petty Accounts Rules. The date for

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closing the monthly accounts at the outlying Courts, should be so fixed as to admit of

the remittance ( made through money order or otherwise) being included in the

balance of the treasury on the last working day of the month. The procedure for

remittance will be the same as described in rules 27 and 28.

**30. The Treasury Account will be a personal ledger account.-** The treasury

account will be a personal ledger account as provided in the Sheriffs' Petty Account

Rules, Section IX, and will be verified as provided in Section X of those Rules with

the necessary modifications.

**31. Register of uncashed cheques.-** In order to make the figures shown in the

books of the Court agree with the Treasury balance it will be necessary to make a list

of uncashed cheques. For this purpose the Court will maintain a "Register of

uncashed Cheques" showing all cheques issued during the month, and those which

have actually been cashed or adjusted. The latter will be taken from the "Treasury

Pass Book."

**32. Statement of uncashed cheques to be shown in cash book.-** The amounts of

the uncashed cheques will be totalled. A statement will then be shown in the "Cash

Book" as follows:-

Rs.

Actual Treasury balance ... ...

Deduct for uncashed cheques ... ...

Nazir

Balance in hand of ------------------ ... ...

Cashier

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Last working day of the month

"(To be remitted on the---------------------------------------------------

Last day of the month on which the account is closed

(in case of outlying Courts)

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Total ...

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The last total should agree with the current total balance of the Court.

Daily supervision of accounts.

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**33. Mode of supervision.-** The daily supervision of accounts will take place exactly

in accordance with the Sheriffs' Petty Accounts Rules-Section VII.

**34. Matters requiring special attention of the Presiding Officer.-** (i) The Presiding

Officer should pay special attention to two matters. He must see that all amounts

received by money order are promptly brought to account and he must also see that

all cheques and R. T. Rs. are sent to the Treasury as soon as received.

(ii) The Presiding Officer must satisfy himself every day of the correctness of the

balance in the "Cash Book."

He should see that-

(a) the excess amount over the prescribed limit when necessary and the entire

amount of cash in the hand of the Nazir on the last working day of the month is

positively remitted to the treasury;

(b) that a reference to the treasury receipt is quoted against the relevant entry in the

Cash Book and that the receipt is pasted in a separate guard file.

**35. Applications to be returned to Ahlmad for inclusion with the judicial**

**records.-** After attestation, the applications will be returned to the Ahlmad for

inclusion with the judicial records concerned.

**Monthly Returns**

**36.** As soon as the Registers of a month are closed and the Treasury Pass Book has

been received, the Presiding Officer of each Court will submit to the Treasury

Officer:-

(i) Monthly submission to the Treasury of extracts from Register of Receipts.- An

extract from the "Register of Receipts" in Form No. **#**[T.A. 43] which should be written

up day to day, so that there may be no delay in sending it at the close of the month.

**Note:-** At the end of every quarter, the Presiding Officer of the Court shall certify that

he has personally and carefully examined the register and that the entries are made

with the utmost care and regularity.

(ii) Monthly submission to the Treasury on list of repayments with payees receipts.- A

list of repayments of deposits made during the month in C.

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Lapses

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**#[38. When amounts lapse. Statement of lapsed items to be sent annually.**

**Lapsed amounts not to be paid by Nazir.-** In accordance with the provisions of rule

12.7 of the Punjab Financial Rules Volume-I read with Article 127 of Account Code

Volume II all deposits not exceeding 5 rupees unclaimed for one whole Account

Year, the balances not exceeding 5 rupees all deposits particularly repaid during the

year then closing, all balances unclaimed for more than 3 complete Account Years

will, after close of June in each year to be credited to Government by means of

transfer entries in the office of the Accountant General. The statement of deposits

and balances thus lapsing shall be prepared by Nazir immediately after 30th June

each year in Form T.A. 49 it having been checked by the Presiding Officer submitted

to the Accountant General through Treasury Officer. Amounts shown in this

statement shall not thereafter be paid by the Nazir. They shall be paid by the

Treasury with the sanction of the Accountant-General according to the procedure laid

down in rule 4.130 of the Treasury and Subsidiary Treasury Rules. An application for

sanction will be made in Form STR 42.]

**39. Clearance register to be sent along with lapsed statement.-** Along with the

statement of lapses each Court shall also furnish the Accountant-General, through

the Treasury Officer, with a list of balances still outstanding of the second preceding

year. This list is prepared in Form No. T.A. 43 after changing its headings and is

called the "Clearance Register." The deposits reported for lapse should be excluded

from the "Clearance Register". To this "Clearance Register" should also be

transferred any items in the last preceding clearance register but one that are for

special reasons not allowed to lapse to government while the bulk of the

outstandings in it so lapse.

**SECTION C -- VOUCHER SYSTEM**

**40. Courts which follow voucher system.-** These rules apply to all Civil Courts

other than those mentioned in Section B; that is, they apply to Courts of District

Judges, and to all Courts of Civil Judges at the headquarters of a district or at

stations where there is a Treasury or a Sub-Treasury.

**41. Principle of the system explained.-** The principle of this system is that laid

down in Rule **#**[4.131 of the Treasury and Subsidiary Treasury Rules]; that is, it is

intended that these Courts should neither receive nor pay out

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money, but that all deposits should be paid into the treasury on documents signed

by the Presiding Officer of the Court, and all payments should be made by means of

vouchers on the Treasury.

**42. Exceptions.-** Certain exceptions, however, have to be made in the case of

money received by the Court by money order or collected. Special provision for such

cases is made in these rules, the principle being that the money must be paid into the

Treasury by the Court on the same day. The Presiding Officer is responsible for

seeing that this is done.

**43. Register of Receipts.-** Only one register will be maintained under the Voucher

System and that is the "Register of Receipts" which is slightly different from the one

maintained for Sheriffs' Petty Accounts and for the Cash System of Civil Court

Deposits; it is reproduced in Schedule B to these rules. The important point to bear in

mind is that this register is primarily a record of challans and vouchers issued, and

not of actual cash transactions.

**DEPOSITS IN TREASURY**

**44. Application for deposit: How to be dealt with.-** The deposits shall, where

branches of the State Bank of Pakistan have not been established, be made in the

Treasury. The depositors shall submit challan form in triplicate with the application to

the Court concerned. After verification and approval by the Court and after the Nazir

has made entries in columns 1 to 7 of the Receipt Register, the challans shall be

submitted by the depositor to the Treasury together with the amount for deposit. The

Treasury shall retain one copy, give the other to the depositor by way of receipt, and

send, on the next day, the third to the court concerned after noting thereon the date

and number of the entry in the Treasury register. The Nazir shall enter the date and

number in the Receipt Register under the initials of the Presiding Officer. The court

shall, at the end of every month, prepare a statement of deposit and send it to the

Treasury for verification and it shall be returned by the Treasury Officer within a

week.

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**DEPOSITS IN STATE BANK**

**45. Return of application by the Treasury.-** The application together with the

Treasury challans in quadruplicate shall be received by the Court concerned. The

challans shall, after necessary verification and orders of the Presiding Officer and

after the Nazir has made entries in the Receipt Register, be returned to the depositor

for depositing the money in the State Bank while the application shall be retained by

the Court and the depositor directed to show the challan to the Court after deposit.

The Bank shall receive the amount along with the challans in quadruplicate and shall

return one copy of the challan to the depositor by way of receipt and send two copies

to the Treasury Officer, who shall retain one copy and send the other to the Court

concerned after noting thereon the number and date of the entry in the Treasury

deposit register. The Treasury shall send the challan form to the Court within two

days of its receipt from the Bank. The Nazir shall enter the deposit number in the

Receipt Register under the initials of the Presiding Officer. At the close of every

month the Court shall prepare a statement of all deposits made during the month and

send it to the Treasury Officer by the 5th of each month for verification from the

entries in the Treasury Register. The Treasury Officer shall return the statement,

after verification, within a week.

**46. Remittance to Treasury of money received by money orders.-** When money

is received by money order and dealt with in the "Court's Intermediate Register" as

provided in rule 10, the Nazir will prepare a formal application and the necessary

challan in duplicate, fill in columns 1 to 7 of the "Register of Receipts," and remit the

money to the Treasury after the Presiding Officer signs the application and the

challans in duplicate, and initials the amount in column 7 of the "Register of

Receipts."

**47. Deposit by Bailiff or Court Auctioneer.-** When money is to be paid in by a

Bailiff or a Court Auctioneer, he should be required to pay the money into the

Treasury himself as if he were a private depositor. The copy of the challan returned

by the Treasury to the Bailiff by way of receipt should be pasted into his note-book.

**Note:-** When money is realized by a Bailiff on a warrant issued by a Court not

situated at the headquarters of the Process Serving Agency to which he is

attached the challan will be prepared in triplicate by the Local Process Serving

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Agent and signed by the Officer in charge of the Agency. On receipt of the money,

the treasury will retain one copy of the challan, return the second copy to the Bailiff

and forward the third, after noting thereon number and date of the deposit in the

books of the treasury, to the local Process Serving Agent for transmission to the

Court concerned so that the deposit may be entered in the Register of Receipts

maintained in that Court.

**48. Money received to be sent immediately to the Treasury.-** All money received

under Rule 46 must be paid into the Treasury on the same working day, or on the

morning of the next working day if received after the closing hours of the Treasury.

**49. The names of both the actual depositor and the person on whose behalf the**

**deposit is made should be entered.-** Where money is received either by money

order or through a Bailiff or Court Auctioneer, the words "By money order" or

"Through Bailiff" or "Through Court Auctioneer" as the case may be, should be

entered in column 5 of the "Register of Receipts" beside the name of the person from

whom the money is received. The Presiding Officer will then be responsible for

checking the Treasury receipt numbers and dates of these items with the challans

received back from the Treasury, which should be laid before him on the following

day. He should initial column 9 of the "Register of Receipts" in token of this check.

**50. Treasury Receipt Number and date to be entered in Receipt Register.-** When

the application is received back from the Treasury, the Nazir will enter the treasury

receipt number and date in column 8 of the "Register of Receipts" and the Presiding

Officer will initial column 9 after verification. The application will then be placed on the

judicial record of the case by the Ahlmad concerned.

**51. Deposits in re. prohibitory orders issued against salaries of Government**

**and Railway servants.-** Deposits in Courts which maintain accounts according to

the voucher system in this section, in respect of prohibitory orders issued by them

against the salaries of Government servants, railway employees, etc., will be made

as follows:-

(i) Where a Government servant or railway employee, etc., is paid by an office which

is situated in a station other than that in which the Court issuing the prohibitory order

is located, the salary disbursing office must remit the amount to the Court by postal

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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 deposit the amount in the local treasury or

sub-treasury as a "Revenue Deposit" on a challan prepared by the salary disbursing

office in triplicate; one copy of the challan for record, one copy will be returned by the

Treasury Officer to the salary disbursing office as a receipt, and the third copy will be

forwarded by the Treasury Officer to the Court issuing the prohibitory order with the

number and date of the treasury deposit noted on it to enable the Court to make the

necessary entries in its "Register of Receipts" and place the challan receipted by the

treasury or sub-treasury on the judicial record of the case.

Presiding Officers of Courts shall endorse all prohibitory orders with clear instruction,

that is (i) or (ii) above as the case may be, to guide the salary disbursing offices how

to pay into Courts the money attached.

**Payments by Voucher**

**52. Mode of payment.-** No separate register for recording repayment of Civil Court

deposits will be maintained by the Nazir of the Court. On receipt of an application for

the repayment of such deposit, the Nazir or the Court will verify the item from the

"Register of Receipts" and put up the application along with the register and the

original record, if not already consigned to the record room for orders of the Presiding

Officer. After orders for repayment are passed by the latter, the Nazir will prepare a

voucher in form "C.A.C. Form No. 27," enter the particulars of repayment in the

"Register of Receipts" against the relevant item and will get both the register and the

voucher signed by the Presiding Officer of the Court concerned. He will then deliver

the voucher along with a memo. showing brief particulars of payment to the payee for

drawing money from the Treasury and place the application and the payee's receipt

for the voucher on record. The Treasury Officer will return the memo. to the Court

after recording thereon the number and date of the Treasury voucher and these

particulars should be noted against the entry of payment in the "Register of Receipts"

over the signatures of the Presiding officer of the Court.

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**53. Duplicate vouchers.-** If a second claim is presented for the amount shown in the

"Register of Receipts" as paid a duplicate voucher may, if necessary, be issued to

the payee after obtaining a non-payment certificate from the Treasury Officer, vide

Article 16 Civil Account Code, Volume I. This voucher should be distinctly marked

"Duplicate". A note regarding the issue of the duplicate voucher should be recorded

against the item in question in the "Register of Receipts" over the initials of the

Presiding Officer.

**54. Voucher forms should be supplied in book form, stitched and machine**

**numbered.-** Vouchers in form C. A. C. Form No. 27 are often supplied in unbound

form. The Courts should not accept vouchers in form C. A. C. Form No. 27 except in

book form stitched and machine-numbered.

**55. Repayment by transfer credit to Government Account.-** In the case of

repayment to be made by transfer credit to Government account, the voucher will be

prepared by the Nazir in the same way as laid down in rule 52 but signed by the

Presiding Officer of the Court who should note distinctly on the voucher.

"Received payment by transfer credit to--------------" (specifying the appropriate head

of account). On receipt of the voucher, the Treasury Officer will make the necessary

entries in his account by "debit to deposit" and credit to the head specified in the

voucher entering the amount in the relevant receipt schedule. Such vouchers need

not be stamped even though the amount involved exceeds Rs. 20.

**Returns**

**56. Returns to be prepared by Treasury Officer.-** All returns in connection with the

receipt and repayment of deposits for submission to the Accounts Office will be

prepared by the Treasury Officer and not by the Nazir of the Civil Court concerned.

**CIVIL COURT DEPOSIT ACCOUNTS**

**SCHEDULE A**

List of items which may properly be included in Civil Court Deposit Accounts.

1. Money paid into Court by parties in anticipation of judgment.

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2. Pre-emption money.

3. Decretal amounts paid in by judgment-debtors or by their superior officers, when

their pay is attached, or by other Courts, on attachment of a decree.

4. Amounts realised in execution by Bailiffs or Court Auctioneers.

5. (Insolvency Court only): advertisement charges and realisations from estates

summarily administered.

6. (District Courts only): Compensation for land acquisition deposited by Collector.

7. Deposits for Court fee in Probate, Letters of Administration, and Succession

Certificate cases.

8. Compensation deposited with District Judges or Civil Judges appointed as

Commissioners under the Workmen Compensation Act.

9. Deposits under the Punjab Relief of Indebtedness Act/Ordinance.

10. Security required by a Civil Court and deposited by a party to a suit.

11. (District Courts only): Money realised in liquidation proceedings when this is not

paid into an account opened by the Liquidator with the State Bank/National Bank of

Pakistan.

12. Any other amount received by a Civil Court in a case and cannot be disbursed

immediately, provided that in no case will money be deposited in these accounts

which under other rules is straightaway to be credited to Government revenues.

**Note:-** No Court should receive money unless it is authorised to do so either by law

or by the rules of the High Court and in the absence of express authority, and of full

particulars, the deposit should be refused, otherwise, difficulties may arise over

refunds. All money received must be brought to account. In particular, it should be

noted that-

(i) (the taking of security in cash from subordinate officials is absolutely forbidden;

and

(ii) Guardianship Courts are not allowed to take money into deposit on behalf of

minors. Guardians frequently try to deposit money with the Court. They should be

required to deposit it with an approved Bank in accordance with the

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rules on the subject. Other persons should be directed to make payment to the

guardian.

**CIVIL COURT DEPOSIT ACCOUNTS**

**SCHEDULE B**

List and specimens of registers and forms to be maintained or used by Courts

in Civil Court Deposit Accounts.

1. Note-Book of Execution Bailiff.

2. Register of Receipts (Cash system)

3. Register of Receipts (Voucher system).

4. Register of Disbursements (Cash system).

5. Cash-Book (Cash system).

6. Receipt form (Cash system)

7. Voucher form (Cash and Voucher systems).

8. Cheque (Cash system).

9. Challan form (Cash and Voucher systems).

10. Register of uncashed cheques (Cash system).

11. Treasury Pass Book (Cash system).

12. Form No. 28, Civil Account Code, Volume I (Cash system).

13. Clearance Register (Cash system).

14. Form No.47, Civil Account Code, Volume II (Cash system).

15. Form No.29, Civil Account Code, Volume I (Cash system).

16. Form No. 30, Civil Account Code, Volume I (Cash and Voucher system).

17. Intermediate Register (Cash and Voucher systems).

receipt books.

18. Stock book of forms of ----------------------

cheque books.

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