

PART D: RULES UNDER SECTION 79 IN RESPECT OF OFFICIAL RECEIVERS

Security

1. Every Official Receiver in the Punjab/Haryana/Chandigarh is required to give security of Rs. 10,000 in cash, Government Promissory Notes, or Stock Notes of Government of India or Fidelity Bonds of such Insurance Companies as are approved by the High Court. The mortgage of immovable property to Government will also be allowed.

Security from amount and reduction, verification and exemption from stamp duty.

Whenever an Official Receiver is in charge of more than one revenue district, he shall furnish security to the above extent in each district separately.

The High Court may sanction the reduction of the security demanded from an Official Receiver if it is found that the average amount realised in his district over a period of five years is less than Rs. 10,000 per annum. The reduced security shall be not less than such average amount realised annually.

The forms in which different kinds of security bonds should be executed by the Official Receivers are printed in Part E of this Chapter.

Where securities other than Government Promissory or Stock Notes, have been or may be accepted, the following rules should be observed for the verification of such securities : —

- (i) They should be verified through the Tehsildar.
- (ii) In addition to ascertaining that the property really exists and that it is of the assorted value, enquiries should be made as to whether there are any prior liens on the property, and a proclamation should be issued in every case inviting claimants to appear within one month.
- (iii) Should no claimant appear within the period the fact should be noted at the foot of the bond.

Note.—Security bonds and mortgage deeds executed by the Official Receiver under these rules are exempt from stamp duty under exemption (e) of article 57, Schedule I of the Indian Stamp Act II of 1899.

*A Fidelity Bond is a Form of Insurance by which the Company binds itself to recoup losses of kind which are ordinarily covered by personal security.

I. LEAVE OF ABSENCE

Vacation
allowed.

2. An Official Receiver will be entitled to remain on leave during the period when the Insolvency Court is closed for the summer vacation unless, for reasons to be recorded, the Judge of the Court otherwise directs.

Grant of
leave.

3. (i) It has been decided by the Punjab Government in consultation with the Hon'ble Judges that District Judges should be allowed, subject to a report to the High Court, to grant leave of absence to the Official Receivers in their districts up to one month in a year. In the case of leave for longer periods, upto three months at any one time, the sanctioning authority will be the High Court. It is not contemplated that any Official Receiver should be given leave in excess of three months, except in altogether unusual circumstances but in a case of this kind does arise, it will be reported to Government.

(ii) In the case of short-term vacancies, it will nearly always be possible for local arrangements to be made (under the orders of the Hon'ble Judges) to carry on the work, and it will not be necessary for a substitute Official Receiver to be appointed. In the case of long vacancies (that is vacancies exceeding three months), it has been decided that when the Hon'ble Judges report the case to Government they will add their views whether the appointment of a substitute Official Receiver under section 57 of the Act is necessary. If so, proceedings to make an appointment will be taken in accordance with the procedure laid in Punjab Government letter No. 802-J-36/ 18370, dated the 4th June, 1936. Otherwise, if the Hon'ble Judges think that satisfactory arrangements can be made without a fresh appointment under section 57, they will issue the appropriate instructions.

II. CASUAL LEAVE

(i) The maximum amount of casual leave which an Official Receiver may enjoy in a period of 12 months commencing with the 15th April, in any year shall not ordinarily be more than twenty days. This is subject to the condition that more than ten days casual leave should not be allowed at a time and that no extra expense is thereby imposed on the Insolvents Estates Fund. Only one spell

of ten days casual leave can be taken during this period and the balance of the leave should be enjoyed in driblets, spread over the year. Leave exceeding four days cannot be granted except in special circumstances on more than two occasions during the year.

(ii) Leave not exceeding four days at a time may be sanctioned by the Insolvency Judge. Leave exceeding four days is to be sanctioned by the District Judge.

(iii) If casual leave is not taken during any period of twelve months commencing from the 15th April, it cannot be accumulated and taken during a subsequent "casual leave" year.

(iv) The privilege of casual leave must not be abused and leave must not be granted when too much latitude in the grant of leave to an Official Receiver disturbs the arrangements of his work as Official Receiver and Court Auctioneer.

(v) Holidays may not be prefixed or affixed to casual leave but one Sunday, either at the beginning or end of the leave, may be combined with it. All other holidays shall be included in the period of leave taken, but such holidays will not be counted as casual leave enjoyed. Last Saturdays of each month may be observed as holidays where they are so observed by the Insolvency Court.

Casual leave may not be combined with the annual vacation of Subordinate Courts and ordinarily casual leave will not be granted so as to end or begin less than one week before or after the vacation.

TRAVELLING ALLOWANCE

4. "Official Receiver may, on previous sanction in Grant of writing granted in each case by the Insolvency Judge, charge against assets of a particular Estate or Estates concerned, actual travelling expenses incurred by them on journeys undertaken in the interest of any particular Estate or Estates".

Grant of
Travelling
Allowance.

Definition at
"actual
travelling
allowance", Daily
Allowance not
permissible.

The journeys
to be performed by
the cheapest
route.

Cost of audit to be
met out of estate.

5. The term "actual travelling expenses" should be interpreted as defined in rule 2.4 of Civil Services Rules (Punjab), Volume I, Part I. No daily allowance can be allowed to the Official Receiver.

6. The journeys must be performed by the cheapest route.

AUDIT

7. In order to meet the cost of audit of the Insolvents Estates by Government, the Insolvency Judge shall deduct from realizations made by the Official Receiver a sum equal to 1¼% of realization and credit it to Government as provided under Rule 6 of Chapter 4-E.

POSTAGE

8. Expenditure on account of postage, after adjudication shall be met from the funds of the estate concerned.

OFFICIAL RECEIVERS' RECORDS

A separate record
for each case to be
kept..

9. The Official Receivers should maintain a separate record for each case showing in detail what action was taken on each day so as to provide a continuous history of the whole administration.

The Receiver to
record all orders
and depositions.

10. All orders on these records should be written out by the Official Receiver in his own handwriting and the practice of leaving it to clerks to examine the parties or witnesses or to fix dates and to record any orders must be given up.

Parts A and B
of the record

11. The record should be maintained in two parts—Part A for proceedings under section 80 of the Provincial Insolvency Act, Part B for all other proceedings.

Records and
registers to
be made over
to the Court on
completion.

12. The records and registers of the Official Receivers when complete should be made over to the Court for being made a part of the Court Records and being consigned to the Record Room along with them.

Index of
papers to be
maintained.

13. An index of papers in form No. 242, as given at page 2 of Part A-III Rules and Orders, Volume VI-A, should be maintained for all records.

DESTRUCTION OF RECORDS

14. The following Registers and Records shall be preserved in perpetuity:-

- Form No. 1 -- Index Register.
- Form No. 2 -- Register of Immovable Property
- Form No. 7 -- Demand and Collection Register.
- Form No. 8 -- Sale List of Property.
- Form No. 9 -- Counterfoils of Receipts.
- Form No. 14 -- Register of Receipts and Administration charges.
- Form No. 15 -- Cash Book.
- Form No. 17 -- Ledger Account.
- Form No. 18 -- Deposit Register.
- Form No. 19 -- Dividentg Register.
- Form No. 20 -- List of office Furniture and Counterfoils of all cheques.

List of records and registers to be prescribed in perpetuity.

All audit objections and replies thereto.

15. 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 date.

List of registers to be preserved for 50 years.

16. The following shall be preserved for twenty years from the date of 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.

List of records to be preserved for 20 years.

PROCEDURE REGARDING SALE OF LAND IN
ANOTHER DISTRICT

Procedure re-
garding sale of
land in another
district.

17. (i) When the property of an Insolvent is situated in a District other than that in which the adjudication takes place, the Insolvency Judge has the discretion to decide whether the Official Receiver should sell the property himself or ask the Insolvency Judge of the Other District in which the property is situated, to do so. In the latter case, the normal procedure should be for the Insolvency Judge to make a request to the Insolvency Judge of the other district under section 77 of the Provincial Insolvency Act, and for the latter Officer to appoint the official Receiver of his district, as receiver of the property in question for the purpose of selling it.

(ii) When the property of an insolvent is sold through the Insolvency Judge of another District and the sale proceeds have been realised, the Official Receiver after charging his commission shall remit the balance to the Insolvency Judge of the Original district togetherwith a statement of accounts duly attested - by the Insolvency Judge. The detailed account of the transactions and the records relating to the sale shall remain with the Insolvency Court of the other district and shall be audited there.

(iii) When money belonging to an Insolvent's Estate in the States of Punjab, Haryana, U.T. Chandigarh and Delhi State is realized at the request of the Insolvency Judge in another State and vice versa, the procedure for keeping the records and accounts shall be the same as given in subparagraph (ii) above, except that the copies of the records shall be sent to the Insolvency Court of the other State,

