



**RULES AND ORDERS
OF THE
LAHORE HIGH COURT, LAHORE**

VOLUME II

**INSTRUCTIONS
TO
CIVIL COURTS
SPECIAL JURISDICTION
AND ACCOUNTS**

CONTRIBUTIONS

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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.

**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]

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 1st 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

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

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.

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.

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

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

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 Bonds; 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.

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.

FORM B
[In the Court of]

[Court of]

In matter of guardianship ofson... 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
Duly authorized by him in this behalf.

The above particulars are true to the knowledge
Of the person making them except as to matters
Stated on information and belief, and as to those
Matters he believes them to be true.

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

Attested by (1)
 (2)

Signature of the person verifying
Signature of the proposed guardian

SCHEDULE TO FORM A.

1	2	3
Details of property belonging to ward	Value	Names of persons in present Possession of the property Mentioned in column 1.
(1)		(1)
(2)		(2)
(3)		(3)
& c.		& c.

FORM B
FORM OF NOTICE UNDER SECTION 11 OF ACT VIII OF 1890

DISTRICT

In the Court of District Judge at

PRESENT

Case No. _____ of 19 .

Petitioner

Inhabitant of

Application for the (¹)-----of a guardian to the (2)-----
of----- a minor inhabitant of-----.

Whereas the petitioner above-named has applied to be (¹)-----
---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 (¹)-----
-----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-----.

FORM C.

A-5- Statement under section 34 showing particulars in regard to immovable and movable property belonging to minor, taken over by appointed as guardian under order of the Court, dated 19

S. No.	IMMOVABLE PROPERTY					MOVABLE PROPERTY				Remarks		
	Land, building or vacant site	Particulars (a)	How occupied (b)	Known or supposed value (c)	Profit or rent realizable	Period for which realizable	Household goods or other property. Supposed value (a)	Jewels, gold and silver	Value (b)		Cash	In whose custody or with whom deposited

- (a) Here state whether land is water, chab, or barren, proprietary or occupancy, and as to building, whether kachra or pucca, one-storied or double-storied, etc.
- (b) Here state whether cultivated through servants or relations, or let on rent, or cultivated by tenant, either occupancy or at will, and in case of building whether occupied by minor or family of let on rent or hire, etc.
- (c) This will assist the Court in determining the amount of security to be taken from the guardian.

FORM 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

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 above-written 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

**REGISTER NO. XXVI
FORM E.**

**STATEMENT RELATING TO THE PROPERTY OF MINORS OF ANNUAL INCOME AND EXPENDITURE.
PART I -- STATEMENT RELATING TO PROPERTY**

Serial No. (with corresponding No. of Miscellaneous Register II) (a)	Name and description of minor (b)	Date of birth	Name and description of guardian of person with date of appointment (b)	Name and description of guardian of property with date of appointment	Date and amount of security bond (if any) taken from guardian	* Date fixed for filing of accounts every year	BRIEF DESCRIPTION OF THE PROPERTY OF THE MINOR AND ITS ESTIMATED VALUE		Estimated income from various sources.	Remarks
							Immovable Property	Movable Property		
									(a) Land (b) House property (c) Securities etc. etc.	

- (a) Corresponding number of the case in the Miscellaneous Register should be given in red ink.
- (b) Give father's name, caste and residence.

PART II.-- STATEMENT OF ACCOUNTS AND ABSTRACT OF IMPORTANT ORDERS.

ACCOUNTS				ABSTRACT OF OTHER IMPORTANT ORDERS, E. G., UNDER SECTIONS 31, 32, 33, 34, 43, ETC., RELATING TO THE PERSON OR PROPERTY OF THE MINOR	
Year	Date of filing accounts	Brief statement of income, expenditure and balance	Remarks of the Judge after examination of the accounts.	Date of order	Abstract of order

FORM F

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

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

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

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

(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

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.

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 1st April 1944.

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

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)].

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 1st Class have been invested with such jurisdiction; but the High Court has directed that only those Civil Judges of the 1st 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 1st 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,

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.

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."]

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.

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,

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

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

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.

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 process-fees 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.

(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 process-server's report and when taken are set aside too readily on payment of costs without any other reason being sought or assigned.

(xiii) Adjournments are granted unnecessarily for the putting in of written replies to miscellaneous 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.

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.

(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

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

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).

19. Schedule of creditors and all subsequent entries in it to be notified to receivers.-- As soon as the Schedule of creditors has been framed, a copy thereof shall be supplied to the Receiver or *interim* Receiver, as the case may be, and all subsequent entries and alterations made therein, shall be communicated to the Receiver or the *interim* Receiver.

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

establishment, rent of building occupied, the cost of stationery and postage and his travelling allowance etc., shall be charged at the rate of $1\frac{1}{4}$ 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 $1\frac{1}{4}$ 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.

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;

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.

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 1st ^{*}[October] and the 1st ^{*}[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.

(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.

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.

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 cross-examine the debtor;

(v) the appointment of a Receiver will often not be necessary, and the Court may act under section 58 of the Act in order to reduce the cost of the proceedings. The administration charges, however, shall be levied at the same rates as 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

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 been 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.

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

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:-

(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

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

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.

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

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.

petitions

Signature.

Verification clause as in plaints.

SCHEDULE A. -- (Debts.)

Name of creditor	Residence of creditor	Amount of debt.		Nature of debt.	SECURITY		Remarks
		Rs.	P.		Nature	Amount	
		Rs.	P.		Rs.	P.	

Column 4. -- In this column enter whether the debt is a judgment-debt, amount due on promissory note, mortgage debt, verbal loan, balance for goods, security for another, etc. In the case of judgment-debt, state the name of the Court and the number of the case.

Column 5. -- In this column state the nature of property whether land, house, gold etc., and the nature of the security, whether deposit, pledge without possession, pledge with possession, mortgage deposit of title deeds, etc.

SCHEDULE B. -- (Assets.)

(1) -- Movable and immovable property

Description of property	Place where situated	In whose possession	Name of estate and holding No.	Area	Value of property	Name and residence of mortgagor	Amount of mortgage	Remarks
1	2	3	4	5	6	7	8	9
					Rs. P.	Rs. P.		

Column No. 9. -- In the remarks column, state if petitioner is only part owner of the property, and, if so, who the other owners are, and what his share in the property is.

(2) -- Debts owing to petitioner.

Name of Debtor	Residence of debtor	Nature of debt	Amount of debt	When contracted	SECURITY		Amount	Remarks
					Good, Bad or doubtful	Name		
1	2	3	4	5	6	7	8	9
			Rs. P			Rs. P		

Column 3.-- In this column, enter particulars as in column 4 of Schedule A.

SCHEDULE C

Former petitions for insolvency by the petitioner

Serial No.	Date of petition.	Date of adjudication, if any.	Date and description of final order on the former petition	*Remarks

* If the petition was dismissed, state the reasons for dismissal. If the debtor has previously been adjudged an insolvent, give concise particulars of his insolvency, including a statement, whether any previous adjudication has been annulled, and, if so, the grounds therefor.

FORM NO. 3
NOTICE TO CREDITORS OF THE DATE OF HEARING
OF AN INSOLVENCY PETITION

(Section 19)

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.

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.

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.

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".

FORM NO. 8.

NOTICE TO CREDITORS OF THE DATE OF CONSIDERATION
OF A COMPOSITION OR SCHEME OR ARRANGEMENT.

(Section 38).
(Title).

Take notice that the Court has fixed the-----day of-----19-----
for the consideration of a composition (or scheme of arrangement), submitted
by A.B. the debtor in the above insolvency petition. No creditor who has not
proved his debt before the aforesaid date will be permitted to vote on the
consideration of the above matter. If you desire to be represented at the above-
mentioned hearing, you should be present in person or by duly instructed
pleader with your proofs.

Judge

FORM NO. 9

FORM UNDER SECTION 38.

List of creditors for use at meeting held for consideration of composition or scheme.

(Title)

Meeting held at ----- this -----day of ----- 19-----.

	Name of all creditors whose proofs have been admitted	Here state as to each creditor whether he voted, and, if so, whether personally or by pleader	Amount of assets.	Amount of admitted proof.
		TOTAL		

Required number of majority.

Required value Rs. -----

FORM NO. 10.

FORM OF NOTICE UNDER SECTION 64.

Notice to persons claiming to be creditors of intention to declare final dividend.

(Title).

Take notice that a final dividend is intended to be declared in the above matter, and that if you do not establish your claim to the satisfaction of the Court on or before the-----day of-----19-----or such later day as the Court may fix, your claim will be expunged, and I shall proceed to make final dividend without regard to such claim.

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

*G. H.
Receiver.
(Address).*

FORM NO. 11

ORDER ANNULING ADJUDICATION UNDER SECTION 35.

(Title).

On the application of R.S. of-----and on reading-----and hearing -----it is ordered that the order of adjudication, dated-----against A.B. of-----be and the same is hereby annulled.

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

Judge.

FORM NO. 12

NOTICE TO CREDITORS OF APPLICATION FOR DISCHARGE.

(Section 41)

(Title)

Take notice that the above-named insolvent has applied to the Court for his discharge, and that the Court has fixed the-----day of-----19-----at-----o'clock for hearing the application.

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

Judge

Note:- On the back of this notice the provisions of section 42(1) of the Insolvency Act V of 1920 should be printed.

FORM NO. 13.

ORDER OF DISCHARGE SUBJECT TO CONDITIONS AS TO EARNINGS, AFTER-ACQUIRED PROPERTY AND INCOME.

(Section 41 (c))

(Title)

On the application of-----, adjudged insolvent on the-----day of-----19-----, and upon taking into consideration the report of the Official Receiver (*or Receiver*) as to the insolvent's conduct and affairs and hearing A.B. and C.D., creditors:

It is ordered that the insolvent

(a) be discharged forthwith, or

(b) be discharged on the , or

(c) be discharged subject to the following conditions as to his future earnings, after-acquired property and income.

After setting aside out of the insolvent's earnings, after-acquired property and income, the yearly sum of Rs._____ for the support of himself and his family the insolvent shall pay the surplus, if any (or such

portion of such surplus as the Court may determine), of such earnings, after-acquired property and income to the Court or Official Receiver (or Receiver) for distribution among the creditors in the insolvency. An account shall on the first day of January in every year or within fourteen days thereafter, be filed in these proceedings by the insolvent setting forth a statement of his 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.

FORM NO. 15
REGISTER OF PERSONS ADJUDICATED INSOLVENTS.

Serial No.	Name of insolvent	Date of adjudication	Date or period fixed for application for discharge	Name of Receiver	Security taken from the Receiver (if any)	Assets with estimated value	Liabilities with estimated value (secured or unsecured debts to be shown separately)	Remarks
1	2	3	4	5	6	7	8	9

FORM NO. 15 -- (CONCLUDED)

ABSTRACT OF RECEIVER'S REPORTS SHOWING PROGRESS OF REALIZATIONS OF ASSETS AND DISTRIBUTION OF DIVIDENDS AND ABSTRACT OF ALL IMPORTANT ORDERS OF THE COURT AFTER ADJUDICATION

Date	Receiver's Report (give brief purport)	Orders of the Court on the Receiver's report	Other important orders passed by the Court after adjudication, with dates thereof

PROPERTY REGISTER FOR INTERIM RECEIVERS

Serial No.

Number of case

Name of case.

Date of interim appointment

Date of adjudication

(if any)

IMMOVABLE PROPERTY			MOVABLE PROPERTY OTHER THAN CASH			CASH			DEBTS DUE TO THE DEBTOR			DOCUMENTS AND TITLE DEEDS		Remarks		
Date of possession	Particulars of property	How disposed of	Date of possession	Particulars	In what condition	How disposed of	Date of receipt	Rs. P.	How disposed of	Date of loan	Name of debtor	Rs. P.	Action taken, if any		Date of possession	Particulars

NOTE--

1. One or more pages should be devoted to each estate according to the requirements of the case.
2. Entries to be made in the register in chronological order but an alphabetical index should be maintained in the beginning for facility of reference.

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.

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-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) 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.

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

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 sale-proceeds only if the creditor makes a written application for the realization of the security through the Court irrespective of the fact whether the purchase money exceeds the mortgage money or not. In cases in which such property is sold without an application by the secured creditor, the commission should be charged on the sale-proceeds less the amount involved by the encumbrance.

Note:- The official 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.

(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

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

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

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.

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 sub-treasuries 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.

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.

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.

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."

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 than 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.

(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 Contingencies 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

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

any property as well as the unrecovered balance due, if any, on account of its sale-proceeds, when sold, should be watched by means of a Demand and Collection Register to be kept in form No.7, in columns 1 to 8 of which the demands should be posted as they occur. When a payment is received on account of any such demand the 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.

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.

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:-

A line should be ruled across the page of the permanent advance account and the totals debitible 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 1st ^{*}[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);

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.

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

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._____

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.

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

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

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

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 *misl*s.

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.

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

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.

FORM No. 2.

Register of immovable property of
CASE NO.

Insolvent
OF 19

1	2	3	4	5	6	7	8	9	10	Amount for which sold		Amount realised		15
										11	12	13	14	
						Ba P.							Ba P.	

FORM No. 3.

Register of movable property of ----- Insolvent
 CASE NO. ----- OF 19 ..

Serial No.	Description of property.	Number of articles.	Value as per Insolvency proceeds.	Date of acquisition.	Date of possession by the Official Receiver.	In what condition.	Reference to order, if released.	Sale Proceeds.			Signature of Official Receiver.	REMARKS Note:- The Official Receiver should record his own remarks here at the time of taking possession of the property so as whether the price realized by the Insolvency appears to be adequate or insufficient.
								Reference to Serial No. in the sale list.	Number and date of receipts.	Amount.		
1	2	3	4	5	6	7	8	9	10	11	12	13
			Rs. P.							Rs. P.		

FORM No. 4.

Register of debts due to Insolvent

CASE NO.

OF 19

1	2	3	4	5	6	7	8	9	AMOUNT RECEIVED		12
									10	11	
Serial No.	Name and address of person against whom the claim is alleged	Nature of debt or claim	Particulars of any securities held for debt.	Date of loan	Amount	Whether good, doubtful or bad.	Initials of Official Receiver.	Manner of recovery, i.e. by action or otherwise.	No. and date of receipt	Amount.	Remarks.
					Rs. P.					Rs. P.	

FORM No. 5.

Register of debts (secured and unsecured) due from Insolvent.

CASE NO.

OF 19

Serial No.	Creditor's name with address.	Nature of creditor's claim.	Amount of debt.	Date of issue.	Reference to order determining the debt as proved.	AMOUNT OF DEBT PROVED				Remarks
						Secured		Unsecured		
1	2	3	4	5	6	Principal	Profit	Principal	Profit	11
			Rc P.			Rc. P.	Rs. P.	Rc. P.	Rs. P.	

.....

FORM No. 6.

*Register showing title-deeds, documents and account books which came to the hands of Official Receiver
in the case of.....Insolvent.*

CASE NO.

OF 19

Serial No.	Details.	Number.	Remarks.
1	2	3	4

FORM No. 7.

Demand and Collection Register for the year.....*Name of*.....*Insolvent*

CASE NO.

OF 19

Serial No.	Name and address of person by whom the demand is payable	Nature of demand and its-attributes	Reference to order, if any	DEMAND			Signature of Official Receiver	AMOUNT RECEIVED		REMITTED		Balance carried to next year's register	(Month)	Remarks
				Amount	Current demand	Total		Amount	Reference to order	Amount				
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
				Rs.	P.	Rs.	P.	Rs.	P.	Rs.	P.	Rs.	P.	

FORM No. B.

NOTE:—When land is given on lease for a number of years and the lease-money is to be paid by yearly instalments, the total amount recoverable for the whole period should not be shown at the very start as "Arrears" in column No. 5. The total demand and the instalments to be recovered should be noted down in column No. 3 for "Nature of Demand and Instalments."

State list of property sold by the Official Receiver of District

Seral No.	Date of sale.	Particulars of property.	Number of articles (if any).	Name of estate.	Reference to page No. of Property Register.	Amount for which sold.	Amount recovered at the time of sale.	Balance left due.	Name of bidder.	Thumb impression or signature of purchaser, i.e., legal bidder.	Number and date of receipt issued.	Remarks.
1	2	3	4	5	6	7	8	9	10	11	12	13
						Rs. P.	Rs. P.	Rs. P.				

FORM No. 9.

COUNTERFOIL OF RECEIPT.

Book No. _____

Receipt No. _____

Received from _____

on account of _____

the sum of Rs. _____

for credit to the estate of _____

Rs. _____

Date _____

District _____

Official Receiver

RECEIPT.

Book No. _____

Receipt No. _____

Received from _____

on account of _____

the sum of Rs. _____

for credit to the estate of _____

Rs. _____

Date _____

District _____

Official Receiver

FORM No. 10.

Voucher No. _____ of Month _____

Pay Sheet of the Establishment of Insolvent Estates' Fund in the district of _____
for the month of _____

Name of incumbents	Name of post	Pay and allowance claimed		Pay and allowance held over for future payment		Deduction		Net charge for each person		Acquittance of payee	Remarks
		Rs.	P.	Rs.	P.	Rs.	P.	Rs.	P.		
	Total :										
	Total :										
Deduct --											
Undisbursed pay											
Other deductions											
Net amount required for payment Rs.											

Place _____

Date _____

Official Receiver

Pay Rs. (_____)

Date _____ } No. and date of Cheque _____ } District _____ Judge _____
Insolvency

FORM No. 11.
Contingent Bill

DISTRICT		VOUCHER NO. _____ OF
Serial No. of sub-voucher	Particulars	Amount
		Rs. P.
	Total Rs.	

Place _____

Date _____

Pay Rs. _____

No. and date of cheque _____ Date _____

OFFICIAL RECEIVER

District

Insolvency

Judge

FORM No. 12.

Permanent Advance Account

Date	No. of sub-voucher.	To whom paid	Particulars of payment	Name of estate or other head of account to which debitible	Amount	REMARKS (No. and date of cheque on which recouped)
1	2	3	4	5	6	7
					Rs. P.	

FORM No. 13.

Stamp Register (to be kept for charges debitable to "Office Charges")

Date	STOCK			EXPENDITURE					Balance in hand at the close of the day.	REMARKS
	Value of stamps in hand at the commencement of the day	Value of stamps received during the day	Total Stock	Name and address of person to whom cover was sent	Brief contents of cover	Value of stamp affixed.	Daily total of value expended during the day			
1	2	3	4	5	6	7	8	9	10	
	Rs. P.	Rs. P.	Rs. P.			Rs. P.	Rs. P.	Rs. P.	Rs. P.	

U.P. 3-D

FORM No. 15.
Cash Book

RECEIPTS							REMITTANCE TO TREASURY			EXPENDITURE						
Date	Folio No. of ledger	On what account and from whom received	No. of receipt of chalan	Amount	Daily total	Progressive Total	No. and date of chalan	Amount remitted	Date	Folio No. of ledger	On what account and to whom paid	No. of voucher and cheque	Amount	Daily total	Progressive total	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
				Rs. P.	Rs. P.	Rs. P.										

NOTE.- An explanation should always be recorded in the remarks column to explain the delay, if any, in sending the amounts received to the Treasury.

FORM No. 18.

Deposit Register

Date	Annual serial number	Name of the estate	Name and address of depositor	Purpose of deposit	Amount	Signature of Official Receiver	PARTICULARS OF REPAYMENT					Balance at the end of the year	Remarks
							Date	Number of cash book voucher	Amount	Purpose for which drawn, whether for payment to depositor or for credit to Government	Signature of Official Receiver		
1	2	3	4	5	6	7	8	9	10	11	12	13	14
					Rs. P.				Rs. P.			Rs. P.	

FORM No. 19.

DIVIDEND REGISTER

In the matter of the Estate of _____ Insolvent.

CASE NO. _____

OF 19 _____

1st, 2nd or 3rd dividend as the case may be _____
 Present Dividend declared on _____

Amount available for disbursement Rs. _____

Amount of present dividend, Rs. _____ drawn on cash book voucher No. _____

dated _____

Rate per rupee on proved liabilities _____

Serial No.	Schedule No. of creditor	Name of creditor	Original amount of debt admitted to schedule	Amount paid thereon up to date of this dividend	Balance due to creditor	Amount payable under this dividend	Number and date of cheque on which drawn	Date of handing over cheque to the payee	Date of cancellation of cheque and transfer of amount to deposit register	Number of deposit register	Balance still due to creditor	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13
			Rs. P.	Rs. P.	Rs. P.	Rs. P.					Rs. P.	

FORM No. 20.

List of Office Furniture

Serial No.	Particulars of furniture	Date of purchase.	No. and month of cash book's voucher	Value	Purpose for which it is used	Signature of Official Receiver	Remarks
1	2	3	4	5	6	7	8
				Rs P.			

FORM No. 21.

STOCK BOOK SHOWING DETAILS OF THE ARTICLES OF STATIONERY, ETC. RECEIVED OR ISSUED DURING THE YEAR 19__ , IN THE OFFICE OF THE _____

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
From whom received or to whom issued	Date of receipt or issue	Cost or value realized on permanent articles only (market)																					Remarks including signatures of persons to whom articles have been issued	
Receipts In stock on 1st _____ 19__																								
Total receipts during _____ 19__																								
Issues																								
Total issues during _____ 19__																								
Balance in stock on 1st _____ 19__																								

NOTE—All entries in this Register relating to receipts of articles should be made in red ink and all issues in black ink. Columns 4 to 24 are left blank to be filled in with names of articles received and issued

FORM No. 22.

Register of investments.

Serial No.	Date of purchase of Security	Number and date of paper	AMOUNT		RATE OF PROFIT		Signature of Official Receiver	Date of recovery of profit and adjustment in account	Amount of recovery of profit	Head of account credited	Signature of Official Receiver	Remarks
			Rs.	P.	Rs.	P.						
									Rs. P.			

FORM No. 23.

Malkhana Register

Serial No.	Name of estate	Particulars of property	Date of possession	Date of disposal	Remarks

FORM No. 24.

Malkhana Labels

Name of estate -----

Date of possession -----

Serial No. of "Malkhana" Register -----



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

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

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

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.

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.

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.

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.

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.

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

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.

IN WITNESS WHEREOF the said Official Receiver has hereunto subscribed
his name at -----on the----- day of -----
-----19 .

Signed by.

(Name)

Official Designation.

1. -----

2. -----

Form No. 27

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

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

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.

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. _____

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

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

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

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 .

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

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

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:

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.

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. _____

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.

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.

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.

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.

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

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 Receiver to issue a certificate (as in the case of a Court sale) but to execute a proper deed of conveyance conforming with the requirements of the law regarding stamp duty and registration.

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 Cash-book and the Demand and Collection Register in order to satisfy itself that the amounts realized have been brought to account and that the balances are being watched through the Demand and Collection Register. The statement of sales shall be submitted in Form No.1 given at the end of this Chapter.

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.

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.

(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 non-attachable 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:-

"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.

- (c) The documents produced in proof of debts are not marked or exhibited with the result that sometimes the same document is used by the creditor to prove the same debt more than once.
- (d) Official Receivers retain undelivered cheques in their hands for long periods. All such cheques should be cancelled if the creditors concerned do not turn up within the normal period of three months during which a cheque remains current.
- (e) The permanent advance is not recouped regularly at the end of each month.
- (f) Applications for the sanction of the High Court of the entertainment of the Official Receiver's Establishment are not submitted in time.'

FORM NO. 1.

STATEMENT OF SALES.

Month-----

S.No.	Name of estate	Description of property	Amount realised	Reference to page of Cash Book	Balance due	Reference to page of Demand and Collection Register
			Rs. P.		Rs. P.	

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.
-

FORM NO. 3.

HISTORY SHEET

Name of Estate _____

Date of adjudication _____

Date	Abstract of proceedings

Signature of the Official Receiver.

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 form in which the grant of Probate is to be made will be found in Schedule VI to the Act and that for the grant of Letters of Administration in Schedule VII.

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

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

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.

(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.

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

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 plaintiffs; 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

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, sub-section (1), clause (f) and section (374)]. At the same time, the court is empowered (by section 376) to extend the certificate, on the application of the holder thereof, to any debt or security not originally specified therein, and otherwise to amend the certificate (section 378).

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

law or fact which may be involved, security must be taken under section 375, sub-section (1), from the person to whom it is proposed to grant a certificate before it is granted. The same remark applies to action under section 373, 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

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.

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.

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.

3. Belgium.

4. Costa Rica.

5. Denmark.

6. Netherlands.

7. Persia.

8. Peru.

9. Poland.

10. Sweden.

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 whom probate or letters of administration have been granted, the number of the file relating to the Will in the General District Register, and the number of the Will in the Register of Deposited Wills, shall be deposited in the fire-proof box.

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

alphabetical index shall be prepared at the end of each year to the entries made in the Register:-

S.No. of Will	Number of file in District General Register	Date of execution of Will	Date of granting probate or letters of administration	Persons to whom probate or letters of administration have been granted	Name of testator	Remarks

5. Procedure for obtaining inspection of the register.-- Any person desirous of inspecting the Register of Deposited Wills shall be permitted to do so on his presenting an application to that effect to the District Judge. Such application shall be written on a stamp paper of the value of one rupee, and shall set forth the name, residence and occupation of the applicant with his reason for desiring to inspect the Register.

6. Procedure for obtaining inspection of the Will.-- Any person desirous of inspecting a deposited Will shall be permitted to do so on his presenting an application to that effect to the District Judge, accompanied with a fee of one rupee. The application shall be written on a stamp paper of the value of one rupee, and shall set forth the particulars specified in the preceding rule.

7. Hour and manner of inspection.-- The inspection of the Register of Deposited Wills or of a deposited Will, may be made between the hours of 11 A.M. and 3 P.M., on every day except authorized holidays, and shall take place in the presence of the District Judge or of an officer exercising the powers of a Civil Judge, deputed by the District Judge for the purpose. The applicant shall not be permitted, while making the inspection, to have pen and ink in his possession, but he may be allowed the use of pencil and paper for purpose of taking notes.

8. Procedure for obtaining copy of the Will.-- Any person desirous of obtaining a copy of a deposited Will shall present an application to that effect to the District Judge, accompanied with a fee of five rupees. Such application shall be written on a stamp paper of the value of two rupees, and shall contain the name, residence and occupation of the applicant, with the

interest, if any which he has in the Will, or his reason for applying for a copy. The copy shall be made at the expense of the applicant, and shall be certified 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.

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.

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

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

(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:-

Account	By whom maintained	Authority
Sheriffs Petty Accounts ...	Civil Nazir, or Naib-Nazir, or Cashier, as the case may be.	Chapter 8-D, Volume II, Rules and Orders.
Civil Court Deposit Accounts	Ditto	Chapter 8-E, Volume II
Copy Agency Accounts in District and Sessions Courts and Court of Small Causes	Examiner, or senior copyist where no examiner exists.	Chapters 17-C and 17-D Volume IV, Rules and
All other items, e.g., pay of staff, contingencies, etc.	Civil Nazir, or Naib-Nazir, or Cashier, as the case may be.	*[Chapter II Part I, Punjab Financial Rules Volume I.]

9. Checking in the Court of District and Sessions Judge.-- In the Court of District and Sessions Judge, the Superintendent being the senior ministerial servant is responsible for checking the work of his subordinates, including the Nazir, and for seeing that the accounts are properly maintained and that all financial rules are observed.

PART B -- AUDIT

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.

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*

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

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

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.

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.

PART D -- SHERIFFS' PETTY ACCOUNTS

SECTION I -- System of Accounts

1. Items included.-- Sheriffs' Petty Accounts relate to sums received by Officers-in-charge of process serving agencies and intended for immediate disbursement. The majority of such items consist of diet money for witnesses, and also include such items as expert fees or commission fees. A detailed list of items which may properly be included in these accounts is given in Schedule A to these rules. No item should be deposited in this account if it should under other rules be credited direct to Revenue Heads.

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

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".

(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-in-charge 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.

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

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 sub-treasury 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;

(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-in-charge.

NOTE:- If the application is for the summoning as a witness of a Government servant, it must state (1) his full official designation, (2) the amount deposited for 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

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.

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.

(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 Process-server 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 diet-money 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 process-server's note-book as well as on the back of the original copy of the process, and submit the latter to the court concerned with the usual certificate of service, at the same time filling up columns 12 and 13 of the "Register of processes received and disposed of by the Nazir".

23. Procedure when processes are returned unserved.-- In the case of non-service, the undisbursed amount returned by the process-server shall again be entered against a new number in the "Register of Receipts". The new number in the "Register of Receipts" should be quoted against the original entry in the "Register of 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 process-

server. The process will then be returned to the Court concerned with a certificate of non-service after filling up columns 12 and 13 of the "Register of Processes received and disposed of by the 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-in-charge; and monthly by the Presiding Officers of Courts in the case of agencies at outlying stations. Where there are more Courts than one situated in the same building or in close proximity at outlying stations the note-books should be checked by the Senior of the Presiding Officers. The 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

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-in-charge shall take delivery of the money order over his own signature in the manner laid down in rule 7 under section 1 and he shall also see that the amount is transferred from the "Intermediate Register" to the "Register of Receipts" on the day of receipt if possible or the next morning. The 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-in-charge of the agency from whom it was received. The said officer shall take delivery of the money order over his own signature in the manner laid down in rule 7 under Section I and he shall also see that the amount is transferred from the "Intermediate Register" to the "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 non-service, 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,

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-in-charge 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

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.

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 received 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.

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-in-charge to satisfy himself that the remittances have been promptly made by reference to the treasury receipts which should be filed in a separate guard file.

SECTION IX -- Treasury Accounts

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

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.

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"	

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

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

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

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.

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.

- (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.)

FORM No. 1.
(Vide Rule 3.)

REGISTER OF RECEIPTS OF SHERIFFS' PETTY ACCOUNT DEPOSITS AT THE AGENCY
OF THE _____ FOR THE MONTH OF _____ 19__

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
Date of receipt	Number of each deposit	No. of the file of the case in which deposited	Name of the Court and of the parties with same and Total number of the village in which the file is to be kept.	From whom received	Nature of deposit	Amount of each deposit	Initials of Officer-in-charge	Daily Total	DETAIL OF PAYMENTS						Total of petty amounts	Lapsed and credited to Government	Remarks			
									Date of payment	Amount of each payment	Initials of Officer-in-charge	Date of payment	Amount of each payment	Initials of Officer-in-charge						
						Rs.			Rs.				Rs.							

FORM No. 2.
(Vide Rule 3.)

REGISTER OF DISBURSEMENTS OF SHERIFFS' PETTY ACCOUNT DEPOSITS AT THE AGENCY
OF THE _____ FOR THE MONTH OF _____ 19__

DETAILS OF ORIGINAL DEPOSIT										
Date of receipt	Number as per Register of Receipts	Amount of balance of deposit	Date of present payment	Yearly Serial No.	To whom paid	Amount paid	INITIALS OF		Daily total carried to Cash Book	Payee's receipt
							Process serving agent	Officer-in-charge		
1	2	Rs. P.	4	5	6	7	8	9	10	11
						Rs. P.			Rs. P.	

FORM No. 3.
(Vide Rule 3.)

CASH BOOK OF SHERIFFS' PETTY ACCOUNTS SHOWING CASH BALANCE IN THE HAND OF THE NAZIR
EACH DAY AT THE AGENCY AT.....FOR THE MONTH OF.....19 ..

1	2		3		4		5		6		7		8		9		10
	RECEIPTS.		PAYMENTS.		BALANCE		Treasury		Cash		Treasury		Cash		Treasury		
Date.	Particulars.	Cash.	Treasury	Particulars.	Cash.	Treasury	Particulars.	Cash.	Treasury	Cash	Treasury	Cash	Treasury	Cash	Treasury	Initials of the Officer-in-charge.	
1-4-37	Opening balance	Rs	Rs		Rs			Rs		Rs.		Rs.					
	(1) Daily total as per register of receipts	200		(1) Daily total as per register of disbursements.	150			150									
	Total	200	4,000			4,000				30				4,000			
2-4-37	(1) Daily total as per register of receipts	300		(1) Daily total as per register of disbursements.	100			100									
	(2) From cash		250	(2) Paid into treasury	250												
	Total	300	4,250			4,250				200				4,250			
3-4-37	(1) Daily total as per register of receipts	200		(1) Daily total as per register of disbursements	350			350									
	(2) Withdrawn from treasury.	150		(2) For cash		150			150								
	Total	1,100	4,350		1,050	150		1,050	150	100				4,100			

FORM No. 5.
(Vide Rule 13.)

Receipt for deposit in Sheriff's Petty Accounts in Agency at _____ _____ Counterfoil of Receipt Book No. _____ Receipt No. _____		Receipt for deposit in Sheriff's Petty Accounts in Agency at _____ _____ Receipt Book No. _____ Receipt No. _____	
Date		Date	
No. of entry in Register of Receipts		No. of entry in Register of Receipts	
Name of Agency		Name of Agency	
Name of depositor		Name of depositor	
Amount deposited		Amount deposited	
Signature of Officer-in-charge		Signature of Officer-in-charge	

FORM No. 7.
(Vide Rule 20.)

NOTE-BOOK OF _____ PROCESS SERVER ATTACHED AT _____ AGENCY.

1	2	3	4	5	6	7	8	9	10	11	12	
Date	Reference to No. of item in Ledger of Disbursements	Name of person to whom money is to be disbursed.	Amount	Initials of the (Name)	Date of Service	Amount paid	Acknowledgment of payee	Amount undischarged	Signature of the witnesses in whose presence the amount was paid	Number of items in Register of Receipts against which re-deposited	Signature of the (Name)	Remarks
			Rs. P.			Rs. P.		Rs. P.				

FORM No. 8,
(Vide Rule 29.)

PAYMENT ORDER ON SHERIFFS' PETTY ACCOUNTS AT _____ AGENCY.

SERIAL NO. _____ OF REGISTER OF DISBURSEMENTS.

Original Number	Date of deposit	Name of depositor	Amount originally deposited
Pay Rs. _____ Dated _____ Presiding Officer			Received this _____ day of _____ 19____ the sum of Rs. _____ P's _____ being the amount payable to _____ on account of the undischarged deposit described above. Claimant's signature _____

FORM No. 9,
(Vide Rule 35)
CHALAN (Form No. 32-A)
STEREO A. AND T. T. M. No. 192

CHALAN OF CASH PAID INTO
on _____ 19 _____
TREASURY

Name of person paying the money on account of	Amount paid (in words and figures.)
Name of person actually tendering the cash	
Head of account Received from	Date
Rupees to the credit of Government as stated herein.	
Treasurer	Accountant
	Treasury Officer

FORM No. 10.
(Vide Rule 36)
CHEQUE

(Books of personal ledger account cheques as supplied by Treasury Officer/District Accounts Officer.)

FORM No. 12.
 (Vide Rule 49)
 (Form S.T.R. 42)
 (See rule S.T.R. 4,130)

VOUCHER NO.
 REFUND OF LAPSED DEPOSITS.

TO

THE ACCOUNTANT GENERAL, PUNJAB, LAHORE.

Sir,

The following refund of Lapsed Deposits, aggregating Rs. (in words) _____ have been claimed by _____ of whose identity and title to the money I have satisfied myself. I request your sanction to the refund.

Class of Deposit	Particulars of Original Deposit		Balance credited to Government	Date of Lapsed Statement	Amount claimed	Remarks
	Year	No.				
			Rs. P.		Rs. P.	

_____ District

The _____ 19

(Sd.)

Judge, Magistrate or other
 Officer

Designation of other Officer, _____

Accountant General's Office No. _____ dated _____

Sanctioned _____

Assistant Accounts Officer,
----- Punjab
Assistant Accountant General

Received payment.

Claimant.

Pay Rupees () _____ only.

The _____ 19

Examined.

Accountant.

Treasury Officer.

NOTICE:-- The signature of the claimant should be obtained on this form and the form should be returned as a voucher in support of the debit.

For use in Accountant-General's
Office.

Serial No. in No. Book

ADMITTED _____

OBJECTED TO _____

Auditor: Exmr. Supdt.

Noted in the Number

Book of the Orders.

Superintendent.

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.

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.

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 them. The Presiding Officer at the time of receiving any money orders, shall first see that the Nazir has entered sufficient particulars thereof to identify the transactions in the "Court's Intermediate Register" and he will then both initial the "Intermediate Register" in respect of the transaction and sign the money order receipt before handing over the receipt to the postman and the money with the money order coupon to the Nazir for further disposal. The money order coupon shall be treated as the depositor's application and the procedure with regard to such applications shall be followed with regard to it. The Presiding Officer must see that all items in the "Intermediate Register" are cleared by transfer entries to the appropriate "Register of Receipts " on the day of receipt if possible 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.

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).

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

as "Civil Court's Deposits", in order to distinguish them from Personal Deposits proper.

9. The surplus collections remitted by the Courts are not to be entered in the Cash Book of the Treasury Officer, as they will be virtually brought on his books by crediting and debiting the gross receipts and payments of the Courts. They will be treated in the same way as remittance from Sub-Treasuries to the District Treasury.

10. The balances in the hands of the Courts will form a portion of the Treasury Cash Balance, and will be entered specifically by the Treasury Officer in the Cash Balance Report and in the Cash Account like balances of Sub-Treasuries.

11. As soon as the Registers of a month are closed, the Court will submit to the Treasury Officer-

- (1) an extract (in Form T.A. 43) from his Register of Receipts of Deposit which should be written up day by day, so that there may be no delay in sending it at the close of the month.
- (2) a list of Repayments of Deposits made during the month in Form T.A. 21 or 44, supported by receipts of the payees, duly stamped, when in excess of Rs. 20. This list will include payments made by the Court under Rule 3, and payments made by the Treasury Officer on cheques under Rule 5, the number of cheques being noted in column 5, and the word "Cheque" in column 7 of the Register of Payments.
- (3) A duly signed Memorandum of Adjustment in the following Form:-

	Rs.	Ps.
A- Opening balance	0	0
Deposits received during the month of as shown in extract from Deposit Register of Receipts submitted	0	0
Total	0	0

B- Deposits repaid during the month as per List submitted	0	0
Balance in Court which I have verified as correct	0	0
Balance in Treasury	0	0
Total	0	0

(Signed) A.B.

Care shall be taken to see that the total of A is equal to the total of B as it ought to be.

12. The Returns received from the Small Cause Court will be transmitted to the Accountant-General in original. The cheques paid by the Treasury Officer should be attached to the Returns with a covering list showing the number and amount of each cheque.

13. On the last working day of each financial year, the entire balance in the custody of the Court shall, without fail, be remitted to the Treasury at such an hour as to admit of its being included in the Accounts for June as a balance at the Treasury.

14. At the commencement of each year, each Court shall furnish the Accountant-General, through the Treasury Officer, with a list of the balances still outstanding of the Civil Courts, Deposits of the second preceding year and those of the last preceding Clearance Register but one which are not allowed to lapse to Government in Form T.A. 43 with suitable changes in the headings and a statement of Lapsed Deposits in Form T.A. 49. The deposits reported for lapses should be excluded from the Clearance Register.

NOTE- When the list of lapses is made up by the Court notice the amount must be sent to the Treasury Officer to enable him to deduct the amount in the personal ledger.]

12. **System of accounts.**- The accounts to be maintained in these Courts are in the main the same as those laid down in the rules for Sheriffs' Petty Accounts to which reference will hereinafter be made as the Sheriffs' Petty Accounts Rules. The principal points of difference are--

(a) The audit authorities are required to check the disposal of all Civil Courts deposits, and a detailed return of all receipts and payments must accordingly be made to the Accountant-General (Rules 36 and 37).

(b) In certain cases repayment may be made by cheque instead of cash (Rules 22 and 26), and these repayments have to be treated differently from withdrawals from the Treasury made under the Sheriffs' Petty Accounts Rules.

13. 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.

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 office must pay the amount to the Court in cash or

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 ."

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

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

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	-----
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)	-----
	Total ...

The last total should agree with the current total balance of the Court.

Daily supervision of accounts.

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.

Form No. [T.A. 44] supported by receipts of the payee duly stamped when in excess of Rs. 20. This list will include payments made by the Court under rule 20 and payment made by the Treasury on cheques under rules 22 and 26, the number of the cheque and the word "cheque" being noted in column 4 of the list.

(iii) Memorandum of adjustment.- A duly signed memorandum of adjustment in the following form:-

	Rs
A.- Opening balance	...
(As per treasury column of the Cash Book)	...
Deposits received during the month of----- as shown in the extract from the "Register of Receipts" submitted	...
Uncashed cheques (if any)	...
Total	----- ...
B.- Deposits repaid during the month as per list submitted	...
Balance in Treasury	...
Total	----- ...
	(Signed) A. B.

Note:- Care shall be taken to see that the total of A is equal to the total of B as it ought to be.

37. Treasury Officer will forward the returns with cheques paid by him.- The returns received from Courts will be transmitted by the Treasury Officer to the Accountant-General in original, the cheques paid by the Treasury Officer being attached to the returns with a covering list showing the number and amount of each cheque.

Lapses.

Lapses

#[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

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.

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

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

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.

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.

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

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.

FORM No. 2.
(Vide Rule 13)

REGISTER OF RECEIPTS OF CIVIL COURT
DEPOSITS OF THE COURT OF _____

(CASH SYSTEM)

1	2	3	4	5	6	7	8	9	DETAIL OF PAYMENTS								18	19	20	21		
									10	11	12	13	14	15	16	17						
	Date of receipt of deposit	No. of suits deposited	No. of file of the case in which deposited	Name of the Court and of the parties with serial No. and date No. in which the file is to be kept	From whom received	Mode of deposit	Amount of each deposit	Initials of presiding officer	Daily total	Date	Amount of each payment	Initials of presiding officer	Date	Amount of each payment	Initials of presiding officer	Date	Amount of each payment	Month of presiding officer	Total of payments	Lapsed and received to Government	Remarks	
						Rs.					Rs.			Rs.			Rs.					

FORM No. 4.
(Tide Rule 13)

REGISTER OF DISBURSEMENTS OF CIVIL COURT
DEPOSITS OF THE COURT OF _____

(CASH SYSTEM)

DETAILS OF ORIGINAL DEPOSIT												
Date of receipt	No. as per Register of Receipts	Amount of balance of deposit	Date of present payment	Yearly Serial No.	To whom paid	AMOUNT PAID		INITIALS OF		DAILY TOTAL CARRIED TO CASH BOOK		Payee's receipt
						Cash	Treasury	Nazir	Presiding Officer	Cash	Treasury	
1	2	3	4	5	6	7	8	9	10	11	12	13
		Rs. P				Rs. P.	Rs. P.			Rs. P.	Rs. P.	

FORM No. 5.
(Vide Rule 13)

CASH BOOK OF CIVIL COURT
DEPOSITS SHOWING CASH BALANCE IN THE HAND OF THE NAZIR OF THE
COURT OF _____ FOR THE MONTH OF _____ 19____
(CASH SYSTEM)

1	2	3		4	5			7	8	9	10
		RECEIPTS			PAYMENTS						
Date	Particulars	Cash	Treasury	Particulars	Cash	Treasury	Cash	Treasury	Rs.	Rs.	Initials of the Presiding Officer.
1-4-37	Opening balance	Rs. 200	Rs. 4000		Rs. 150						
	(1) Daily total as per register of receipts	200		(1) Daily total as per register of disbursement							
	Total	200	4000	Total	150		50		4,000		
2-4-37	(1) Daily total as per register of receipts	500		(1) Daily total as per register of disbursement	100						
	(2) From cash		250	(2) Paid into treasury	250						
	Total	500	4,250	Total	350		200		4,250		
3-4-37	(1) Daily total as per register of receipts	280		(1) Daily total as per register of disbursements	530						
	(2) Withdrawn from treasury	150		(2) For cash		150					
	Total	1,130	4,250	Total	1,060	150	100		4,100		

FORM No. 6,
(Vide Rule 14)

RECEIPT FOR DEPOSIT IN CIVIL COURT DEPOSITS (CASH SYSTEM) OF THE COURT OF _____ COUNTERFOIL OF RECEIPT		RECEIPT FOR DEPOSIT IN CIVIL COURT DEPOSITS (CASH SYSTEM) OF THE COURT OF _____ RECEIPT	
Book No. _____	_____	Book No. _____	_____
Receipt No. _____	_____	Receipt No. _____	_____
Date _____	_____	Date _____	_____
No. of entry in Register of Receipts ..	_____	No. of entry in Register of Receipts ..	_____
Name of Court ..	_____	Name of Court ..	_____
Name of depositor ..	_____	Name of depositor ..	_____
Amount deposited ..	_____	Amount deposited ..	_____
Signature of Presiding Officer	_____	Signature of Presiding Officer	_____

FORM No. 7,
(Vide Rule 20)
VOUCHER IN FORM No. 27, CIVIL ACCOUNT CODE, VOLUME I
(CASH AND VOUCHER SYSTEMS)
 Stereo, A and T /Deposits No. 261
 _____ Treasury _____ Month of _____ 19____

Voucher No. _____		List of Payments _____
Head of Service Chargeable _____	Deposits _____	
Original Number _____	Date of Deposit _____	Name of Depositor _____ Amount originally deposited Rupees _____
Examined and entered _____ Accountant, Treasury Treasury Officer		Received this _____ day of _____ 19____, the sum of Rupees _____ being the amount payable to _____ on account of the Deposit described above Claimant's Signature _____ Stamp if required Passed for payment Rs. _____ Judge, Magistrate or Collector

FORM No. 8.
(Vide Rule 22)
CHECK
(CASH SYSTEM)

(Books of Personal Ledger Account cheques as supplied by Treasury Officer)

FORM No. 9
(Vide Rule 27)
CHALAN (Form No. 32-A)
 Chalan of cash paid into the Treasury,
 State Bank of Pakistan/National Bank of Pakistan.

TO BE FILLED IN THE REMITTER		TO BE FILLED IN BY THE DEPARTMENTAL OFFICER OR THE TREASURY	
By whom tendered	Name of designation and address of the person on whose behalf money is paid	Amount	Head of account
	Full particulars of the remittance and the authority (if any)		Order to the Bank
			Date
			Correct Receive and grant receipt
			Signature and full designation of the Officer ordering the money to be paid in
	Total		

To be used only in the case of remittances to Bank through an Officer of the Government

Date:

Received payment

Signature
(in words) Rupees

Treasury Officer
Agent/Manager

FORM No. 10,
(Vide Rule 31)

REGISTER OF UNCASHED CHEQUES OF CIVIL COURT
DEPOSITS ON THE TREASURY OF THE COURT OF _____

(CASH SYSTEM)

Date	Number of cheque and No. in Column 5 of Register of Disbursements	Previous Balance Rs. P.	Issued during month Rs. P.	Cashied by Treasury Rs. P.	Balance Rs. P.	Remarks

NOTE:- "Date of encashment" should be entered in the column for "Remarks."

FORM No. 13.
(*Vide Rule 39*)

CLEARANCE REGISTER
(CASH SYSTEM)

The form is as of form 28, Civil Account Code, Volume I, but with the title changed.
It is printed as Punjab Form Stereo A. and T. 260.

FORM No. 15.
 Vide Rule 38
 Form T.A. 49
 (See Chap. IV, Art. 127.)

STATEMENT OF LAPSED ⁽¹⁾
 Treasury, for the year

DEPOSITS OF THE
 19

Particulars of Deposit				For use in Accountant General's Office			Remarks	
Year	No.	Balance Lapsed		No. and date of Refund order	Amount of Refund sanctioned			Initialed
		Ra.	P.		Ra.	P.		

¹Civil Criminal Courts or Revenue.

FORM No. 16,
(Vide Rule 38)
S.T.R. 42
(See Rule S.T.R. 4.130)
Refund of Lapsed Deposits

To,

THE ACCOUNTANT GENERAL, PUNJAB _____

The following refunds of Lapsed Deposits aggregating Rupees _____ (in words) have been claimed by _____ of whose identity and title to the money I have satisfied myself, request your sanction to the refund.

Class of Deposits	Particulars of original Deposit		Balance credited to Government		Date of Lapsed Statement	Amount claimed		Remarks
	Year	No.	Rs.	P.		Rs.	P.	

Signature

The _____ 19

Judge, Magistrate or other Officer

FORM No. 17.

(Vide Rule 10.)

INTERMEDIATE REGISTER OF MONEY ORDERS, ETC. RECEIVED IN
THE COURT OF _____ FOR THE MONTH OF _____ 19__

Serial No.	RECEIPT					DISPOSAL			Remarks			
	Date of Receipt	If Money Order: (i) Name of remitter. (ii) No. and date of money order, and (iii) Post Office of issue.	If Cheque: (i) Name of drawer. (ii) No. and date of cheque. (iii) What bank, and (iv) No. and date of crossing letter.	If other valuables: (i) Specify them. (ii) From whom received. (iii) Particulars of case.	Amount of money, value or value.	Initials of Presiding Officer.	Serial No. and date in Register of Receipts S.P.A.C.C. 7)	Made or other disposal.		Signature of Presiding Officer.		
								Rs				

CHAPTER 9
RULES UNDER THE MUSSALMAN WAKF ACT,
1923....[Omitted].