

The Pension Fund Regulatory and Development Authority (Procedure for Search and Seizure by Authorised Officer) Rules, 2014

UNION OF INDIA

India

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Rule

THE-PENSION-FUND-REGULATORY-AND-DEVELOPMENT-AUTHORITY of 2014

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The Pension Fund Regulatory and Development Authority (Procedure for Search and Seizure by Authorised Officer) Rules, 2014 Published vide Notification No. G.S.R. 812(E), 17th November, 2014 Ministry of Finance (Department of Financial Services) G.S.R. 812(E). - In exercise of the powers conferred by clause (e) of sub-section (2) of Section 51, read with sub-section (10) of Section 17 of the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013), the Central Government hereby makes the following rules, namely :-

1. Short title and commencement.

(1) These rules may be called the Pension Fund Regulatory and Development Authority (Procedure for Search and Seizure by Authorised Officer) Rules, 2014. (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

- In these rules, unless the context otherwise requires, -(a) "Act" means the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013); (b) "authorisation" means warrant of authorisation issued by the Authority in Form appended to these rules; (c) "authorised officer" means the officer authorised under sub-section (1) of Section 17 of the Act to exercise powers of search and

seizure under the said section;(d)"section" means section of the Act;(e)words and expressions used herein and not defined but defined in the Act, shall have the meanings respectively assigned to them in the Act.

3. Competent authority to issue authorisation for search and seizure.

(1)The Authority shall issue authorisation under sub-section (1) of Section 17 for the purpose of that section.(2)Without prejudice to the provisions contained in sub-rule (1), the Chairperson may issue authorisation under sub-section (1) of section 17 if he has been delegated by an order made in writing by the Authority under sub-section (1) of Section 49:Provided that the Authority may, by order made by it in writing under sub-section (1) of section 49, authorise any of the whole-time members to issue the authorisation, in the temporary absence of the Chairperson.(3)The Chairperson or the whole-time member shall, immediately after issuing the authorisation under sub-rule (2), report such authorisation along with reasons therefor, to the Authority in its first meeting held immediately after the issue of such authorisation.

4. Officer to whom authorisation may be issued.

- The Authority shall issue authorisation to an officer not below the rank of General Manager of the Authority for the purpose of search and seizure under Section 17.

5. Form and manner of issuing authorization.

(1)The authorisation issued under these rules shall be in the Form of appended to these rules.(2)Every authorisation shall be in writing under-(a)the signature of the officer directed by the Authority to sign the authorisation to be issued by it under sub-rule (1) of rule 3 and shall bear the seal of the Authority; or(b)the signature of the Chairperson or the whole-time member, as the case may be, issuing the authorisation under sub-rule (2) of rule 3 and shall bear his seal.

6. Obligation of person in charge of any building or place, to afford all reasonable facilities for search.

- Any person in-charge of or in any building or place, authorised to be searched, shall, on demand by the authorised officer and on production of the authorisation, allow him free ingress thereto and afford all reasonable facilities for a search therein.

7. Circumstances under which police force may be used.

- If ingress into a building or place cannot be obtained as specified in rule 6, it shall be lawful for the authorised officer executing the authorisation, with such assistance of police officers or of officers of the Central Government, or of both, as may be required, to enter such building or place and search therein, and in order to effect an entrance into such building or place, to break open any outer or inner door or window of the building or place, if after the disclosure of authorisation and the

purpose and demand of admittance duly made, he cannot otherwise obtain admittance: Provided that, if any such building or place is an apartment in actual occupancy of a woman, who according to custom does not appear in public, the authorised officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing and may then break open the apartment and enter it.

8. Breaking open of box, locker, safe, almirah or other receptacle in certain cases.

- The authorised officer may require any person who is the owner, or has the immediate possession, or control, of any box, locker, safe, almirah or any other receptacle in building or place, to open the same and allow access to inspect or examine its contents, and, where the keys thereof are not available or where such person fails to comply with any such requirement, may cause any action to be taken including the breaking open of such box, locker, safe, almirah or other receptacle which the authorised officer may deem necessary for carrying out all or any of the purposes specified in the authorisation issued under rule 3.

9. Previous permission of authorised officer required for removal of books, accounts, papers, receipts, vouchers, survey reports or other documents in certain cases.

- The authorised officer may, where it is not practicable to seize the books, accounts, papers, receipts, vouchers, survey reports or other documents, serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with them except with the previous permission of the authorised officer who may take such steps as may be necessary for ensuring compliance with this rule.

10. Two or more respectable persons to attend and witness search and seizure.

- Before making a search and seizure, the authorised officer shall, where any building or place is to be searched, call upon two or more respectable inhabitants of the locality in which the building or place to be searched is situated, to attend and witness the search and seizure, and may issue an order in writing to them or any of them so to do.

11. Preparation of list of all things seized in course of search.

- The search shall be made in the presence of the witnesses and a list of all the books, accounts, papers, receipts, vouchers, survey reports or other documents seized in the course of such search and of the places in which they were respectively found shall be prepared by the authorised officer and signed by such witnesses.

12. Rights of occupants including person in charge of building or place, searched.

(1)The occupant of the building or place, searched, or some person on his behalf, shall be permitted to attend during the search and a copy of the list prepared under rule 11 shall be delivered to such occupant or person.(2)A copy of the list prepared under rule 11 shall be forwarded to the Authority.

13. Books, accounts, papers, receipts, vouchers, survey reports or other documents seized during search to be placed in package or packages.

(1)The authorised officer shall place or cause to be placed the books, accounts, papers, receipts, vouchers, survey reports or other documents seized during the search in a package or packages which shall be listed with details of such books, accounts, papers, receipts, vouchers, survey reports or other documents placed therein.(2)Every package referred to in sub-rule (1) shall bear an identification mark and the seal of the authorised officer and the occupants of the building or place, searched or any other person on his behalf shall also be permitted to put his seal on them.(3)A copy of the list prepared shall be delivered to the occupant or person referred to in sub-rule (2) and a copy thereof shall also be forwarded to the Authority.

14. Deposit of books, accounts, papers, receipts, vouchers, survey reports or other documents seized in search with the Custodian Officer.

- The authorised officer shall convey the books, accounts, papers, receipts, vouchers, survey reports or other documents seized during the search, in a package or packages, if any, referred to in rule 13, to an officer of the Authority designated by it as Custodian Officer (hereinafter referred to as the Custodian Officer) for the purposes of these rules and any books, accounts, papers, receipts, vouchers, survey reports or other documents seized in the search referred to above may also be deposited with the Custodian Officer.

15. Duties of Custodian Officer.

(1)The Custodian Officer shall take such steps as he may consider necessary for the safe custody of the package or packages referred to in rule 13 and deposited with him.(2)The Custodian Officer may deposit for safe custody all or any of the packages with any branch of a public sector bank or with such officer or authority as may, by order, be specified by the Authority.

16. Opening of package or packages.

(1)Whenever any sealed package or packages are required to be opened for any of the purposes of the Act, the authorised officer, on being so directed by the Authority, may requisition the same from the Custodian Officer or the branch of public sector bank or the officer or authority referred to in rule 15 and on receipt of the requisition, such package or packages, as the case may be, shall be delivered to him by such Custodian Officer or branch or public sector bank or such officer or

authority and the authorised officer may break any seal and open such package or packages in the presence of two respectable witnesses giving a reasonable notice to the person from whose custody the contents were seized to be present.(2)The witnesses referred to in sub-rule (1) shall be permitted to be present till the contents of the package or packages are placed in a fresh package or packages and sealed in the manner specified in rule 13 or delivered to such person or the Custodian Officer, or the branch of public sector bank or the officer of authority referred to in rule 15, as the case may be.

Form[See rule 5]Warrant of authorisation under section 17 of the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013) and rule 5 of the Pension Fund Regulatory and Development Authority (Procedure for Search and Seizure by Authorised Officer) Rules, 2014.

Whereas information has been laid before the *Authority/*me, being the Chairperson/whole-time member of the Authority (mention the name of the person authorised by the Authority/Chairperson/whole-time member) and on the consideration thereof *Authority/I have reason of believe that-

*(a) Shri-----, resident of -----, being required under sub-section (3) of section 16 of the Act to produce, or cause to be produced, any books, or other documents or record in his custody or power has omitted or failed to produce, or cause to be produced, such books, or other documents or record; or

*(b) Shri-----, resident of -----to whom a requisition to produce any books, or other documents or record in his custody or power has been or might be issued will not, or would not, produce or cause to be produced, such books, or other documents or record which will be useful for, or relevant to, an investigation under sub-section (1) of section 16 of the Act; or

*(c) a contravention of any provision of this Act has been committed or is likely to be committed by----- (mention name of intermediary); or

*(d) any claim which is due to be settled by the -----(mention name of intermediary), or, has been or is likely to be rejected or settled at a figure higher than a reasonable amount; or

*(e) any claim which is due to be settled by -----(mention name of intermediary); or, has been or is likely to be rejected or settled at a figure lower than a reasonable amount; or

*(f) any illegal fees and charges have been transacted or are likely to be transacted by (mention name of intermediary); or

*(g) any books, accounts, papers, receipts, vouchers, survey reports or other documents, belonging to ----- (mention name of intermediary) are likely to be tampered with, falsified or manufactured.

And whereas *Authority/*I has/have reason to suspect that any such books, accounts, papers, receipts, vouchers, survey reports or other documents, belonging to an intermediary have been kept and are to be found-(specify particulars of the building/place or such details which shall locate such building/place).

3. And therefore, this warrant or authorisation is issued to,-

1.

----- (name and designation of Authorised Officer)

2.

----- (name and designation of Authorised Officer)

3.

----- (name and designation of Authorised Officer)

4.

----- (name and designation of Authorised Officer) (a) to enter and search the said building/place; (b) to search any person who has got out of, or is about to get into, or is in the building/place if you have reason to suspect that such person has secreted about his person any such books, accounts, papers, receipts, vouchers, survey reports or other documents; (c) to place identification marks on such books of account and documents as may be found in the course of the search and as you may consider relevant to or useful for the proceedings aforesaid and to make a list thereof together with particulars of the identification marks; (d) to examine such books, accounts, papers, receipts, vouchers, survey reports or other documents and make, or cause to be made, copies or extracts from such books, accounts, papers, receipts, vouchers, reports or other documents; (e) to seize any such books, accounts, papers, receipts, vouchers, survey reports or other documents found as a result of such search and take possession thereof; (f) to deposit such books, accounts, papers, receipts, vouchers, survey reports or other documents with the Custodian Officer or the branch of public sector bank or with the officer or authority referred to in rule 15 of the Pension Fund Regulatory and Development Authority (Procedure for Search and Seizure by Authorised Officer) Rules, 2014; (g) requisition the services of any police officer or any officer of the Central Government, or of both, to assist the aforesaid authorised officer for all or any of the purposes specified in the Pension Fund Regulatory and Development Authority (Procedure for Search and Seizure by Authorised Officer) Rules, 2014 and it shall be the duty of every such police officer or officer to comply with such requisition; (h) where it is not practicable to seize any such books, accounts, papers, receipts, vouchers, survey reports or other documents to serve an order on the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with them except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with the provisions of sub-section (3) of section 17 of the Act; (i) to examine during the course of the search or seizure on oath any person who is found to be in possession or control of any such books, accounts, papers, receipts, vouchers, survey reports or other documents, and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under the Act; Officer authorised to sign by the Authority/Chairperson/Whole-time member (Seal) (*Strike out whichever is not applicable) (Name of officer) Designation of officer (File No. -----)