

# The Punjab Official Trustees Rules, 1966

PUNJAB

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### Rule THE-PUNJAB-OFFICIAL-TRUSTEES-RULES-1966 of 1966

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The Punjab Official Trustees Rules, 1966Published vide Notification Punjab Gazette, (Extra.), Legislative Supplement, Part 3, dated February 11, 1966The 7th February, 1966No. G.S.R.21/CA.2/13/S.30/66. - In exercise of the powers conferred by section 30 of the Official Trustees Act, 1913 (2 of 1913) read with Government of India, Ministry of Home Affairs, notification No. GSR452, dated the 3rd June, 1958, the Governor of Punjab is pleased to make the following rules, namely :-

#### 1. Short title and commencement.

(1)These rules may be called the Punjab Official Trustees Rules, 1966.(2)They shall come into force at once.(3)They shall apply to the whole of the State of Punjab, Himachal Pradesh and the Union Territories of Delhi.

#### 2. Definitions.

- In these rules, unless the context otherwise requires, -(a)"Act" means the Official Trustees Act, 1913;(b)"Bank" means the State Bank of India and the term shall include for the purposes of rule 25 any scheduled Bank;(c)"Official Trustees" means the Official Trustee appointed under section 4 of the Act, for the State of Punjab, Delhi and Himachal Pradesh;(d)"Section" means a section of the Act; and(e)"Schedule" means schedules appended to these rules.

#### 3. Acceptance by the Official Trustee of Trusts for religious purposes.

[Section 7(2) read with section 30(2)(i)]. - (1) The Official Trustee shall reject any application for the acceptance of any trust for a religious purpose unless he is satisfied that such trust will not involve him in the performance, supervision, or control of any religious rites, ceremonies or duties and shall not accept any such trust without the express sanction of the Government to be obtained in each case.(2)The Official Trustee, may, if he thinks fit, accept a trust which involves the management or

carrying on of any business, subject to the following conditions, namely :-(a)that he is satisfied that the management or carrying on of the business involves no risk of loss; and(b)that his intervention is with a view to the sale, disposition or winding up of the business; and(c)that his management or carrying on the business shall not, save with the sanction of Government, last longer than one year.

#### **4. Manner of notifying the contents of Will.**

[Section 9 read with section 30]. - The prescribed manner of notifying the contents of a Will under section 9 shall be by delivering or sending by registered post to the Official Trustee a certified copy of the will.

#### **5. Fees.**

[Section 17 read with section 30(2)(f)]. - (1) The fees mentioned in Schedule I to these rules shall be the fees prescribed under section 17; provided that they may be reduced, compounded for, or remitted as provided in these rules.(2)Whenever the Official Trustee appears as counsel on behalf of any trust or in connection with the Administration thereof, he shall be entitled in addition to the fees chargeable under section 17 of the Act, and prescribed by rule 5 of these rules to retain a personal fee of Rs. 50.00 per hearing which shall be charged to the General Purpose Fund, and shall not be credited to Government under rule 14 of these rules.

#### **6. Reduction of fees.**

[Section 17 read with section 30(2)(f)]. - (1) If in any case it appears to the Official Trustee that the circumstances of a trust are, or probable will be such as to render his duties, in relation thereto, exceptionally simple or otherwise of an exceptional character justifying this course, he may remit any part (not exceeding one half) of any prescribed fee; but in every such case the reasons for so doing shall be recorded by him, and a report of such cases shall be submitted every half-year to the Government.(2)When a trust is made for a charitable purposes for an object of general public utility or when the circumstances of a trust so justify, the Official Trustee may with the previous sanction of Government, remit wholly or in part any prescribed fee.

#### **7. Composition of fees**

[Section 18 read with section 30(2)(f)]. - Where in opinion of the Official Trustee the income of any trust is not liable to serious fluctuations, he may from time to time agree with the person or persons entitled to such income to accept (in lieu of the income fee payable in pursuance of Schedule I) a fixed half yearly fee of such amount as shall appear to the Official Trustee approximately equal to the average income fee which but for such agreement would be payable in respect of such income. A report of such cases shall be submitted every half yearly to the Government.

## **8. Valuation for calculating fees.**

[Section 17 read with section 30(2)(f)]. - For the purpose of calculating fee under section 17 of the Act :-(1)the value of any property shall be -(a)in the case of testamentary trust the net value of the estate as valued for the purpose of the Court Fees Act;(b)in case of property other than cash the price which in the opinion of the Official Trustee such property would fetch if sold in the open market. For the purpose of determining such price, the Official Trustee shall, when necessary consult an expert valuer;(2)income, where the same is derived from carrying on of any trade or business shall mean the gross receipts of such trade or business, after deducting any advance made by the Official Trustee for the purpose of carrying on such trade or business.

## **9. Investment of cash balance.**

[Section 30(2)(b)]. - The cash balance standing to the credit of a separate account which represents the interest or income of investments or other property, and which is payable by way of annuity or otherwise to the person or persons entitled thereof, or standing to the credit of any depositor in the sundry estates deposit account, although it exceeds Rs. 500.00 in amount, shall not be invested unless it can properly be treated as dead assets or dead funds.

## **10. Time of payment.**

[Section 30(2)(c)]. - Subject to any special arrangement made under rule 7, all fees payable under section 17 shall be paid by or debited to the trusts on taking possession or on realisation of the property, as the case may be, and no further fees shall be charged on distribution.

## **11. Method of payment of fees.**

[Section 30(2)(f)]. - The Official Trustee may, with the approval of the Government, agree to any mode of payment of any fee payable to him under the Act, which shall seem to him just and reasonable.

## **12. Adjustment of fees in accounts.**

[Section 30(2)(f)]. - The account of each trust in regard to fees payable shall be adjusted every half yearly on 30th June and 31st December, respectively :Provided that previous to the final closing of any trust, the Official Trustee shall adjust his account in regard to fees charged or payable in accordance with the rules herein contained.

## **13. Fees under section 22.**

[Section 30(2)(f)]. - (1) The following shall be prescribed fees for the purpose of section 22, namely :-(1)For copies of account, a fee calculated at 12 paise per folio with a minimum fee of two rupees.(2)For copy of a certificate of an auditor - six rupees.(3)For information on any single point

in respect of any trust in which the account is open - four rupees.(4)For information or inspection of accounts, searches regarding trusts which have been closed - eight rupees per hour :Provided that no fees shall be payable under clause (1) or clause (3) except in cases where the Official Trustee considers, for reasons to be recorded in writing, that the copy or information required will result in a duplication of work in his office or will involve expense or labour other justifying the charges.Explanation. - The word 'folio' in this rule shall mean seventy-two words. A group of not more than five digits shall for this purpose be reckoned as one word.(2)When documents other than those mentioned in sub-rule (1) are supplied, fees shall be charged in accordance with the scale of fees in force in the High Court of Judicature for the State of Punjab at Chandigarh, from time to time, for copies of documents of the same kind :Provided that no fees shall be payable under this sub-rule in cases where the Official Trustee considers, for reasons to be recorded in writing, that the copies required will not result in duplication of work in his office or involve expense or labour.

#### **14. Disposal of fees.**

[Section 18 read with section 30]. - All fees realised by the Official Trustee shall be credited by him in his 'Commission Ledger' and shall be paid by him before the close of each financial year to the credit of the Government account.

#### **15. Return of fees.**

[Section 30(2)(f)]. - The Official Trustee shall submit to the Government at the end of each and every financial year as soon after the 31st March as possible a statement showing the fees earned and expenses incurred which shall be termed the 'Financial Statement' and such statement shall be countersigned by the Auditor.

#### **16. Accounts etc.**

[Section 30(2)(a)]. - The Official Trustee shall keep the accounts statements and records specified in Schedule II to these rules.

#### **17. Payment to be supported by voucher.**

- Every payment charged in the Official Trustee's General Cash Account shall be supported by a voucher which shall be passed for payment under the initials of the Official Trustee.

#### **18. Payment to persons in United Kingdom.**

[Section 30(2)(c)]. - All payments made to persons resident in the United Kingdom shall be made through Agent to the Official Trustees at the India Office by means of bills of exchange payable on demand in London. Such bills of exchange shall be obtained by the Official Trustee from the Bank, though they need not necessarily be the bills of the Bank.

## **19. Limit of cash balance.**

[Section 30(2)(b)]. - The Official Trustee shall not, except for special reasons, retain in his hands a larger sum in cash than Rs. 2,000.00. Any excess beyond that amount shall be lodged in the personal ledger account with the Treasury as soon as practicable after its receipt.

## **20. Investment cash balances.**

[Section (3)(2)(b)]. - Whenever the cash balance to the credit of the general account of any trust after providing for ascertained current demands and outgoing amounts to or exceed Rs. 500.00 it shall be invested in any of the securities permitted by these rules.

## **21. Investment of the floating cash balances.**

[Section 30(2)(b)]. - (1) The Official Trustee may, from time to time, invest any portion of the floating cash balance standing to the credit of his personal ledger account with the Treasury in fixed deposit with the Bank and the interest accruing on such investment shall, from time to time, be credited to an account to be called the General Purposes Fund. (2) The amount of the General Purposes Fund may be applied by the Official Trustee, for meeting any the following charges :- (a) Office contingencies. (b) Bank's Commission. (c) Pay of menials. (d) Adjustment of accidental irrecoverable debits against trusts. (e) Stationery and Printing. (f) Travelling expenses. (g) Audit fee. (h) The expenses of any suit, including the personal fees of the Official Trustee under sub-rule (2) of rule 5 and those of counsel whom he may engage with or in substitution for himself; and also the expenses and fees of counsel engaged by the Official Trustee and of experts and arbitrators to whom any matter may be referred whether any such suit is instituted or not : Provided that the General Purposes Fund shall not be applied to meet such expenses and fees in any single suit or reference beyond the maximum of Rs. 500.00 without the sanction of the Government. (i) Cost of publishing notices, notifications, and citations connected with trusts. (j) Miscellaneous. (3) Should the General Purposes Fund at any time be more than sufficient to meet the charges likely to be met from it in terms of the preceding clause, any excess balance may at the end of a half-year be further invested to make provision for any possible further expenditure under any of the above heads, or the like. (4) The said account may be kept jointly with the General Purposes Fund Account of the Administrator-General and operated upon by the Administrator-General and Official Trustee in his joint capacities.

## **21A. Audit.**

[Section 19 read with Section 30]. - [(1) the accounts of the Official Trustee shall be audited by such Chartered Accountant as may, from time to time, be appointed by the Government on the recommendations of the Official Trustee, Punjab.] [Substituted vide No. G.S.R. 9/C.A. 11/S 30/Amd (1)/8, dated 28th January, 1981.] (2) The accounts of the Official Trustee in regard to trusts under administration shall be balanced every half-year, viz., 30th June and 31st December. (3) The said accounts shall be examined by the Auditor who shall report thereon as provided by section 19(2).

The Auditor shall examine the books specified in Schedule II, and shall also have access to any other book or books kept by the office which shall be necessary for or facilitate the examination and auditing of the accounts of the Official Trustee.(4)Any person who is summoned under the Act by an Auditor shall be entitled to be paid his travelling and other reasonable expenses, which upon being certified by the Auditor shall be paid by the Official Trustee and debited to trust concerned.

## **22. Cost of audit.**

[Section 21 read with Section 30]. - [The cost of the audit of the Official Trustees account shall be charged to the General Purposes Fund of the Department.] [Substituted vide No. G.S.R. 9/CA. 11/S 30/Amd (1)/8, dated 28th January, 1981.]

## **23. Audit of accounts of Zamindaries and business.**

[Section 21 read with Section 30]. - The Official Trustee shall cause the local accounts of zamindaries in his charge and the accounts of any business which is carried on by him on behalf of and which belongs to any trust in his charge to be audited from time to time either by private auditors or with the previous approval of Government by the Auditor prescribed under section 19 of the Act, the whole expense of such audit being debited to the trust concerned, such auditors shall be selected by the Official Trustee unless Government shall in any such case name the auditors who are to be employed.

## **24. Investment.**

[Section 30(2)(b)]. - The Official Trustee may invest or retain invested money belonging to any trust in any investment authorised by the instrument creating the trust or unless expressly forbidden by such instrument, in any securities specified in section 20 of the Indian Trust Act, 1882 (II of 1882).

## **25. Safe custody of securities.**

[Section 30(2)(b)]. - (1) All Government securities, debentures and shares coming into the possession of the Official Trustee shall, as soon as practicable, be lodged in the Bank for safe custody, except in any case in which it may be necessary for him to retain them temporarily for any special purpose. All such securities or shares shall, as soon as, practicable be endorsed or transferred into the name of the Official Trustee and earmarked to the trust to which they respectively belong.(2)All securities lodged under this rule may be withdrawn on requisition signed by the Official Trustee.

## **26. Safe custody of valuables and documents.**

[Section 30(2)(b)]. - There shall be maintained in the office of the Official Trustee a room which shall be provided with iron safes for the safe custody of all cash, currency notes and other securities and other assets, such as jewels, ornaments, and articles of a like nature and also title deeds and

other documents belonging to the trust, and the keys of such room and safes shall be kept in duplicate, one set in the possession of the Official Trustee and the other set in the Bank. All jewels, ornaments and other articles of a like nature which are of any substantial value shall, as soon as possible, be listed and valued by a competent valuer to be selected by the Official Trustee. When the value of the jewels or other articles exceeds five hundred rupees the Official Trustee shall, after they have been valued, deliver them for safe custody to the Bank or to any other Bank or firm approved by the Government in this behalf; and if their value does not exceed five hundred rupees he may either deliver them to such Bank or firm for safe custody or retain them in the strong room in his office.

## **27. Credits of funds transferred under Section 23.**

[Section 30]. - All funds transferred under the provisions of section 23 of the Act shall be paid to the credit of the Government and an intimation of such payment with particulars thereof shall be forwarded to the Accountant-General, Punjab.

## **28. Prescribed authority under Section 24.**

[Section 30]. - The Accountant-General, Punjab, shall be the prescribed authority for the purposes of section 24 of the Act.

## **29. Destruction of papers.**

[Section 30(2)(i)]. - The Official Trustee may be after closing the accounts of any trust, in his hand, destroy any private papers, bills, receipts, memoranda and other similar documents of no value, which he had received along with the trust and which are not claimed by the beneficiaries or any other persons entitled thereto.

## **30. Management of Zamindaries.**

[Section 30(2)(b)]. - In order to secure efficient and economical management of zamindaries, being trust properties under charge of the Official Trustee, the cost of the management of which are debitable to trusts under the provisions of section 18 of the Act, it shall be open to the Official Trustee to employ a general manager and such assistants as may be necessary for the management thereof instead of employing separate managers and assistants in the case of each trust. The salaries of the manager and assistants and other expenditure of the zamindari department which is not incurred specially on account of any particular trust concerned shall be rateably divided amongst all the trusts concerned in proportion to the amount of the annual collections of the various zamindaries taking also into account the nature and the amount of work involved in the management thereof. Each trust shall, however, be debited with any particular expenditure solely and exclusively incurred on its account. The general expenditure shall be so regulated that in no case shall any trust be debited with a larger sum than it would ordinarily cost to manage it, were the property belonging to it placed under the management of its own separate staff.

### **31. Cost of reports.**

[Section 30(2)(c)]. - The schedules, reports and returns prescribed by rules 6, 7 and 15 shall be prepared by the establishment of the Official Trustee and the cost thereof shall be debited to the general working expenses, of the office.

### **32. Repeal.**

- The Official Trustees (Punjab) Rules, 1914 are hereby repealed :Provided that anything done or any action taken under the rules hereby repealed shall be deemed to have been done or taken under the corresponding provisions of these rules.-----