

# Rajasthan Insolvency Rules

RAJASTHAN

India

## Rajasthan Insolvency Rules

### Rule RAJASTHAN-INSOLVENCY-RULES of 1800

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Rajasthan Insolvency RulesInsolvency Proceeding

#### 419. Forms to be used.

- These rules may be cited as "The Rajasthan Insolvency Rules". The Forms No. 39 to 55, appendix B and Registers Nos. 78 to 86, Appendix C in volume II, with such variations as circumstances may require shall be used for the matters to which they severally relate.

#### 420. Insolvency petition.

- Every insolvency petition be entered in the Register of Insolvency Petitions (Reg. 51) to be maintained in all Courts exercising Insolvency Jurisdiction and shall be given a serial number in the register and all subsequent proceedings in the same matter shall bear the same number. The person presenting the petition shall file a copy also for the receiver.

#### 421. Inspection of insolvency proceedings.

- All insolvency proceedings may be inspected by the Receiver, the debtor, and any creditor who has tendered proof of his debt, or any legal practitioner on their behalf at such times and subject to the same rules as other court recordsNo fee shall be charged for inspections made by a receiver.Notices

#### 422. Publication of a Notice in the official gazette or local newspaper.

- Whenever publication of any notice or other matter is required by the Act\* to be made in an official gazette; or is required by the rules framed under the Act to be made in a local newspaper, a memorandum referring to and giving the date of such advertisement together with a copy of the sheet of the newspaper containing such advertisement shall be filed with the record and noted in the order-sheet

#### **423. Notice of date of hearing to be advertised in a news paper**

- Notice of an order filing the date of the hearing of a petition under section 19(2) shall, in addition to or in lieu of the publication thereof in the local official gazette, be advertised in such newspaper or newspapers as the court may direct. A copy of the notice shall also be forwarded by registered letter to each creditor to the address given in the petition. The same procedure shall be followed in respect of notices of the date for the consideration of a proposal for composition or scheme of arrangement under section 38(1).

#### **424. Notice of an order of adjudication to be also published in a local Newspaper.**

- Notice of an order of adjudication under section 30 which is required by the Act to be published in the local official gazette shall also be published in such local 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 notices or orders annulling an adjudication under section 37 (2).

#### **425. 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.

#### **426. 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.

#### **427. Notice under section 41 (i).**

- Notices of the date of hearing of applications for discharge under section 41(1) shall be published in the local official gazette and in such local newspapers as the Judge may direct and copies shall be sent by registered post to all creditors whether they have proved or not.

#### **428. Certificate of a notice having been duly posted.**

- 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 rules 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.

#### **429. Other methods of publication of a notice.**

- In addition to the prescribed methods of publication, any notice may be published otherwise in such manner as the court may direct for instance, by affixing copies in the court house or by beat of drum in the village in which the insolvent resides.

#### **430. Registration envelopes to be supplied by the parties.**

- The insolvency clerk shall not receive any money for issuing registered letters, etc. under any of the aforesaid rules, but registration envelopes for the purpose shall be supplied by the parties and the postal receipts of registered letters, etc. shall be placed on the record and noted in the index.

#### **431. Charges for publication of a notice.**

- A fixed amount of Rs. 8.40np. will be charged on account of the publication of a notice under Provincial Insolvency Act (V of 1920) in the official gazette. These charges include a sum of 40np. to cover the cost of the copy of Part II of the gazette, which will be supplied free of cost by the Superintendent Government Press to the court concerned. These charges shall be deposited by the party concerned in the Treasury and will be accounted for there as a receipt of the Superintendent: Government Press. Note :- The Court may instead of or in addition to forwarding a notice by registered post under the foregoing rules cause it to be served in the manner prescribed for the service of summons. Receivers

#### **432. Appointment of a receiver.**

- 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.

#### **433. Appointment of Collector as Receiver.**

- A Court before appointing the Collector a receiver under section 20 of 56. shall give the Collector sufficient time to obtain the orders of the higher revenue authorities.

#### **434. Remuneration of a Receiver.**

(1) A court when fixing the remuneration of a receiver shall, as a rule direct it to be in the nature of a commission or percentage of which one part shall be payable on the amount realized by the Receiver, and the other part on the amount distributed in dividends. The part payable on the amount realized by the Receiver shall not usually be more than 4 percent, and the part on the amount distributed in dividends should not usually be more than 1%. If any remuneration in excess of the percentages fixed above is paid, the court shall record its reason before allowing the remuneration. (2) the court may direct additional remuneration to the Receiver:-(i) where, in the

interest of the estate, he incurs expenditure in traveling;(ii)where he being a lawyer performs work for which a lawyer would otherwise have been employed: and(iii)where a composition is proved under section 38 and the remuneration payable to the Receiver under clause (1) of the rule appears insufficient.(3)Where the Receiver performs the work of a lawyer as described in sub-clause (ii) of clause (2), the court deciding the matter in which the Receiver appears, will fix a suitable fee, not exceeding the full legal fee payable to a lawyer, as the fee payable to the Receiver. The receiver need not file a certificate of fees. The amount so assessed shall be taxed as costs in the decree or order and will represent the additional remuneration payable under the said clause (2) (ii) to the Receiver.(4)Where the adjudication is annulled, or where the insolvent settles his affairs with his creditors out of court, the court may allow to the Receiver any additional remuneration over and above what may be payable to him, under clause (2) that it thinks fit, provided that, in any case the total amount allowed shall not exceed the total amount that could have been paid under clause (1) if the case had come to its conclusion; provided also that the additional remuneration under sub-clauses (i) and (ii) of clause (2) shall not be taken into consideration in calculation in calculating the total amount payable under clause (1).

#### **435. Keeping of accounts by a Receiver.**

- The Receiver shall keep a cash book (Reg. 78) and such books and other papers as to give a correct view of his administration of the estate, and shall submit his accounts in such forms as the court may direct. The court shall, when appointing a Receiver other than an official Receiver, order in each case, as to what extent the procedure for keeping accounts enjoined by rule 443 in respect of Official Receivers, shall be followed by him.

#### **436. Deposit of all moneys by the Receiver in the court or in a bank.**

- The Receiver shall ordinarily deposit all money realized by him either in the court or in a bank approved by the court, in the name of the court, keeping in his hands only such cash as is sanctioned by the court, and shall submit to the court at the end of every quarter, not later than the tenth day of the month succeeding the quarter in respect of all the estates in respect of which he is the Receiver, an account (Ret. 30) showing :-(i)the total amount deposited in court:(ii)the total amount in current account or in fixed deposit bearing interest, in a bank in the name of the court: and(iii)all cash in his hands.

#### **437. Quarterly accounts.**

- The Receiver shall submit to the court each quarter not later than the tenth day of the month next succeeding the quarter to which it relates an account (Ret.31) showing all the receipts and disbursements in the case or cases in which he is Receiver

#### **438. Expenses of attachment of property to be borne by the creditor.**

- When there are no funds in the estate, any creditor, desiring the Receiver to attach property, shall

file an application supported by an affidavit and a guarantee that he will pay all expenses incurred. A deposit of Rs. 5 shall accompany the guarantee, and all expenses shall be borne by the creditor, who can obtain a refund from the sale proceeds, the Receiver shall show in the accounts of the estate all sums received under this rule.

#### **439. A creditor may apply for copy of the Receiver's Account.**

- 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. No court fee will be required for such copies.

#### **440. Composition or scheme under section 38.**

- In any case in which a meeting of creditors is necessary and in any case in which the debtor proposes a composition or scheme u/s 38, the Receiver shall give at least 14 days notice to the debtor and to every creditor of the time and place appointed for each meeting. Such notices shall be served by registered post.

#### **441. A copy of order made or act done by the official Receiver**

- Orders made or acts done by the official Receiver in the exercise of his powers under the Act, shall be recorded in writing with full reasons and any person aggrieved thereby shall be entitled to a copy of such record on application made to the Receiver on payment of Re 1 to the Receiver for each copy. The receiver will be entitled to the money and will provide the copy at his own cost.

#### **442. Monthly statements of the work done by the Receiver**

- The Receiver shall, on the first working day of each month, file in the court a brief statement (Ret. 12) of the work done by him in the previous month and the dates on which the work was done. In case of sales he shall also give a complete list of the properties sold by him, their estimated values and the prices actually received for them at the sales. Maintenance of Accounts By Official Receivers.

#### **443. Special provisions for maintenance of accounts of Insolvent's estates.**

- The following special provisions shall be followed in respect of the maintenance of insolvent's estates by official receivers. - General (1) Figures in the accounts shall be in English characters. Books of accounts shall be substantially bound and paged before being brought into use. (2) Corrections and alterations shall be neatly made in red ink and initialed and dated by the official Receiver. Erasures and over-writings shall on no account be permitted in registers, statements, vouchers or account of any description. Receipt and Crediting of money (3) All moneys received by the official Receiver in his official capacity on behalf of any insolvent estate under his management shall, without any reservation, be promptly accounted for in the general cash book to be maintained in form of

Register No. 78. When money is received in cash, a receipt in Form No. 51 shall be prepared and signed by the official Receiver or such other person as the court may direct. While authorising any such person to collect income the court may decide whether any security and if so for what amount, should be furnished by him.(4)When income of zamindari property is collected through the collecting agent, he shall keep a progressive total on the counterfoils of receipts referred to in clause (iii) of sub-rule (12), and remit in tact all such collections to the official Receiver as such intervals as may be fixed by the court.(5)The official receiver shall deposit all money received by him in the State Bank of India or in a Post office Savings Bank in the name of the court, keeping in his hands only such cash as is sanctioned by the court. An account may be opened in some other bank also with the previous approval of the Government. In places where there is no branch of the State Bank of India or any other suitable bank approved by the Government, the insolvency funds shall be deposited in the Treasury in a separate Personal Ledger Account as "Official Receiver's Account" to be administered by the District Judge or by such other Presiding Officer as may be authorised by the District Judge in this behalf. He shall open a single current account in the bank in his official capacity for moneys belonging to all the insolvent estates under his management, if there is a large balance at the Credit of any particular estate, such portion thereof as is not likely to be required in the near future may be transferred from the general account to the fixed deposit account or Savings Bank Account in the name of the estate concerned, and the interest accruing on such deposits shall be credited to the ledger account of that estate.(6)The cash in the hands of the Official Receiver shall not exceed the amount fixed by the Court to meet emergent petty expenses.(7)The cash book shall be closed, balanced and signed by the Official Receiver at the end of each month and the balance compared with that of the bank pass book and the fixed deposit receipts: the differences, if any, being explained in a footnote in the cash book. The cash book shall be laid before the insolvency court once a quarter alongwith the quarterly statement referred to in sub-rule (8) for scrutiny and signature. Personal Ledger.(8)A separate ledger account in the prescribed form (Reg. 79) shall be maintained by the Official Receiver for each estate in his management. Items of receipt and expenditure shall be carried to these ledgers from the cash book, as soon as the transaction occurs. At the end of each quarter, the entries of the ledger shall be totalled and then the total shall be put up before the court for inspection. A statement (Ret. 31) shall be prepared at the end of the each quarter. Note. - The grand total of the balances of all the estates shall be made to agree with the balance shown in the cash book at the end of the quarter concerned and a certificate to that effect endorsed by the Official Receiver on the statement. Record of Movable and Immovable Property(9)As soon as the Official Receiver takes charge of an insolvent's property, he shall prepare an inventory thereof, and submit it for the information of the court.(10)The details of the property of the insolvent, shall be entered from the inventory referred to in the preceding rule, in the register of movable and immovable property described in sub- rules (11) and (12).(11)A register of movable property shall be maintained in the prescribed form (Reg. 80) in which separate pages shall be allotted for the entries relating to each estate. When the property or a portion of it is disposed of by sale or otherwise, columns 6 to 8 of the register shall be posted. If the sale proceeds are immediately realized, they shall be brought to account directly in the cash book. If they are to be realized subsequently or by installments, the demand shall be entered in the register of Miscellaneous Demands in the prescribed form (Reg 81), and a reference to the entry in the demand register shall be quoted in the remarks column of the property register against the entry concerned.(12)A register of immovable property shall be maintained in the prescribed form (Reg. 82) and the instructions

regarding the maintenance of the register of movable property contained in the preceding sub-rule shall as far as possible be observed in the maintenance of this register as well. When houses and shops belonging to an estate are given out on rent, or Zamindari property is leased out, the realization of the demand shall be watched through the Register of Miscellaneous Demands (Reg. 81), a reference being made in the remarks column of the Register of Immovable Property against the entry concerned. When Zamindari property is under direct management, the collecting agent shall be required to keep the following records:-(i)A copy of the Patwari's Khatauni.(ii)A Bahi-khata in the prescribed form (Reg. 33) in which all demands on account of current and arrear rents, sayar and manorial dues, etc., shall be recorded.(iii)A receipt book in Form No. 52 which shall bear printed book and serial number.(iv)A statement (Ret. 57) of demand, collection and balances, etc. estate-wise and giving also grand totals, to be prepared from the bahi-khata at the close of the revenue year. The statement shall be put before the court for its information and necessary orders as soon as it is ready.(13)If property is sold by auction, a list of bidders shall be drawn up showing the following particulars: the last bid being initialled by the sale officer as well as the purchaser:-(i)Date of auction.(ii)Particular of Property sold showing its number or quantity.(iii)Reference to property register.(iv)Names of bidders.(v)Amount of each bid.(14)In the case of auction held by recognized firms of auctioneers, the list mentioned above may be dispensed with but a sale accounts should be obtained from the auctioneer and kept on record. It may also be dispensed with under the special orders of the Insolvency Judge when the property sold is movable and consists of petty items.Register of Book Debts.(15)The Official Receiver on taking over charge of an estate shall prepare a list of book debts and other money assets, such as decrees bonds mortgage deeds, Government and other securities, etc. the list shall be submitted to the Court for information and copied in the Register of Book Debts in the prescribed form (Reg. 84). Each class of assets shall be entered separately in this register, a reference to the inventory or other document being made against the entry concerned in the column of remarks. If a book debt or a portion thereof is remitted by the court, the order shall be quoted in the column of remarks. Decrees for money and /or costs obtained by the Official Receiver subsequently for or on behalf of the estate of the insolvent shall be entered in this register as well as in the Register of Miscellaneous Demands (Reg. 81).Register of Dividends(16)All debts due by an estate shall be recorded in the register in the prescribed form (Reg. 85) as soon as they are admitted, when dividends are distributed, the entries of their payment shall be made in columns 6 to 8. Sufficient space should be allotted for the account of each creditor to admit of the entries of dividends paid on different occasions being made at the same place.Payments(17)Each payment made from the funds of an insolvent estate shall be supported by a payment voucher which shall bear an order of payment from the Official Receiver. Small sums shall be paid from the case in hand of the Official Receiver, while large payments on account of dividends and other items shall be made by cheque which should, as far as possible, be in the name of the actual payee.(18)The payment vouchers shall be serially numbered for each month and kept in a guard file along with actual payee's receipts. In case of petty items in which payee's receipts cannot be conveniently obtained, the court may furnish a disbursement certificate which shall be attached to the voucher concerned. The Official Receiver, however, may give a disbursement certificate for petty items up to a rupee.Register of suits(19)With a view to watch the progress of expenditure on the suits instituted or defended by the Official Receiver on behalf of an estate, a register of suits in the prescribed form (Reg. 86) shall be maintained, expenditure being posted immediately as it occurs.Audit(20)The accounts kept by the Official Receiver shall be audited

annually by the Examiner, Local Fund Accounts, except when the income of the estate is below Rs. 20/- per annum. Before the accounts of an estate are finally closed, a reasonable amount should be reserved for the cost of audit which shall have preference over the remuneration of the Official Receiver. (21) The audit fees to be charged to the estate shall be at the following rates:-

Particulars of estates Rs.	Rates of audit fee per estate nP.	
1. Estates with income of Rs. 20/- but below Rs. 100/- per annum	2	0
2. Estates with income of Rs. 100/- to Rs. 300/- per annum	5	0
3. Estates with income of Rs. 301/- to Rs. 500/- per annum	7	0
4. Estates with income of Rs. 501/- to Rs. 750/- per annum	10	0
5. Estates with income of Rs. 751/- to Rs. 1000/- per annum	12	50
6. Estates with income of above Rs. 1000/- per annum	Rs. 1/25 percent on the total income of the estate.	

Such fees shall be credited in the Treasury when payable to the Examiner, Local Fund Accounts, by triplicate challan. N.B. - Income means whatever amount is received from the estate of the Insolvent either by its transfer or in the share of periodic yield e.g. Zamindari profits, rent, interest on deposits, realizations from decrees or undecreed debt, dividends, etc. (22) The Official Receiver shall at the time of audit, cause to be produced all accounts, registers, documents and subsidiary papers, which may be required by the audit officers, to assist them in their investigation. (23) The objection statements issued by the auditor in the course of audit, shall be returned to him promptly and in any case before the close of audit, with notes showing the action which has been taken or which it is proposed to take to settle the objections raised over the signature of the Official Receiver. The auditor shall return for further action any items on which final or sufficient action has not, in his opinion, been taken and when possible, shall, before leaving the station, bring to the personal notice of the court, items which have not been disposed of. (24) The result of each audit shall be communicated to the court in two parts viz., (i) the objection statement, containing outstanding objections dealing with technical irregularities, omissions and defects and (ii) the audit note dealing with matters of a general and important nature, which require the particular attention of the court or higher authority. (25) The court shall consider the audit note and the objection statement as soon as possible after their receipt, and decide the action to be taken in regard thereto. The action taken shall be indicated on an interleaved copy or on the margin of the audit note and on the objection statement which shall be placed before the audit officers at their next visit. Proof of Debts

#### 444. Proof of debts

- A creditor's proof may be in Form No. 53 in Appendix B with variations as circumstances may



require. In order to give effect to section 48, clause (2) every proof of debt shall also specify.-(i)the original amount advanced:(ii)the contract rate of interest:(iii)the interest due at the contract rate on date of admission of petition:(iv)the interest due at six per cent on the date of admission of petition. In the case of Court decrees which include a decree for interest at a contract rate higher than six per cent, the proof shall show the principal amount sued for and the amount of interest due at six per cent on the date of decree, as well as costs given by the decree.

#### **445. Proof of claims for wages by workmen employed by debtor**

- In any case in which it shall appear from the debtor's statement that there are numerous claims for wages by workmen and other 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. 54 in Appendix B. Procedure where the Debtor is a Firm

#### **446. Procedure in case of a debtor or creditor being a 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., "Radhakrishnan and Co., by Jamna Lal, a partner in the said firm".

#### **447. Personal service of a notice in case of a firm.**

- Any notice or petition for which personal service is necessary shall be deemed to be duly served on all members of a firm if it is served at the principal place of business of the firm within the jurisdiction of the court upon partners or upon any person having at the time of serving the control or management of the partnership business there.

#### **448. Person carrying on business in a name or style other than his own.**

- The provisions 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.

#### **449. Filing of an insolvency petition by a firm of debtors.**

- Where a firm of debtors file an insolvency petition, the same shall contain the name 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 partner concur in the filing of the same.

#### **450. Operation of an adjudication order against a firm.**

- 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 is a partner in that firm.

#### **451. Partnership of debtors.**

- 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.

#### **452. Compositions or Schemes of arrangement by joint creditors.**

- The joint creditors and each set of separate creditors may severally accept compositions 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 of one or some of the debtors made to his or their separate creditors may not be accepted.

#### **453. Compositions or schemes by a firm and by the partners individually.**

- Where proposals for compositions or scheme are made by a firm and by the partners therein individually, the proposal 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 proposal 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.

#### **454. Where two or more of the partners may constitute a separate and independent firm.**

- 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. Applications and notices

#### **455. Applications and notices.**

(1) Every application to the court either by the Receiver or by any creditor, or by any person either claiming to be entitled to any alleged assets of the debtor, or complaining of any act of the Receiver, and in particular without prejudice to the generality of this rule for an order deciding any question under sections 4, 51, 52, 53, 54 and 55 or any one of them, shall, unless otherwise provided by these

rules, or unless the court shall in any particular case otherwise direct, be made by application in writing and shall be supported by an affidavit by the applicant.(2)Every such application shall state in substance the nature of the order or relief applied for, the section of the Act under which such application is made, the grounds upon which such order or relief is claimed, and the sections of any other Act relied upon.(3)Every such application shall also state whether the applicant desires or intends to call witnesses at the hearing in support thereof and shall specify with precise identification the documents upon which the applicant intends to rely.(4)Where such application is made by an applicant other than the Receiver, a copy of such application and a copy of the affidavit in support thereof shall be served upon the Receiver together with copies of the documents upon which the applicant intends to rely as mentioned in sub-rule (3) hereof, unless the number or volume of such document is exceptionally great, in which case notice of the fact shall be given to the Receiver, and an opportunity shall be afforded to the Receiver of examining the original seven clear days at least before the hearing.(5)Where such application is made by the Receiver, the affidavit in support thereof shall identify any statement of the debtor made to the Receiver, which is either on the file or in the Receiver's possession and on which the Receiver intends to rely.(6)Any party to the application shall be entitled to inspect the original of any document which has been either filed, or mentioned in the affidavit made in support of such application, or of which any copy has been exhibited to such affidavit.(7)A copy of every application mentioned in sub-rule (1) hereof and of the affidavit in support of such application shall be served upon the Receiver whether or not any relief or order is expressly claimed against him.Sale of Immovable Property of insolvent

#### **456. Sale of immovable property of insolvent.**

- 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 his own cost and shall be signed by the Presiding Officer of the court. The costs of registration, if any, will also be borne by the purchaser.Dividends

#### **457. Dividends.**

- The amount of the dividend may, at the request and risk of the creditor, be transmitted to him by post.Summary Administration

#### **458. Summary administration of an estate.**

- 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 proceeding in the official gazette or local paper. But the court shall publish a notice (F. 55) of the adjudication of insolvency, the annulment thereof, and of any application made for discharge, by beat of drum and by affixing a copy at the residence of the insolvent and in the court house.(ii)The petition and all subsequent proceedings shall be endorsed "summary case".(iii)The notice of the hearing of the petition so the creditors shall be in Form No. 41 in Appendix B.(iv)The court shall examine the debtor as to his affairs but shall not be found 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.Costs

#### **459. Costs.**

- All proceedings under the Act down 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, the costs of the petition creditor shall be taxed and be payable out of the estate.

#### **460. Cost to be allowed out of the estate.**

- No costs incurred by a debtor on, or, incidental to, application to approve of a composition or scheme shall be allowed out of the estate if the court refused to approve the composition or scheme.

#### **461. Making of an order of adjudication or annulment of adjudication.**

- When an order of adjudication or annulment of adjudication is made on a debtor's petition and the court is satisfied that the debtor is unable to pay the cost of publication in the local official gazette of the notice required by section 30 or 37(2) of the Act and when an order of adjudication is annulled under section 43(1), the court shall direct that such costs be met from the sale proceeds of the property of the insolvent, If the insolvent has no property or if the sale proceeds are insufficient, such costs or the irrecoverable balance thereof shall be remitted.

#### **462. The Court to draw a formal order embodying its adjudication and memorandum of costs.**

- A court shall draw up a formal order embodying its adjudication and the memorandum of costs incurred by the parties in:-(1)decisions and orders specified in Schedule 1 of the Act, from which an appeal lies to the High Court under sections 75(2), and(2)any other decision or order against which a party or receiver signifies in writing to the court his intention to appeal from.

#### **463. Process and warrant fee.**

- No process or warrant fee shall be chargeable on a process or warrant which the court may issue in order to secure the attendance of a person or for his arrest on its own motion or on that of the Receiver when the same cannot be paid out of the estate or funds of the insolvent.

#### **464. Registers and other papers of the Official Receiver.**

- Registers kept by official Receivers shall, within one year of their completion, be consigned to the record room through the Insolvency Judge. Other papers like copy of Patwari's Khatauni, statement of demand, collection and balances list of bidders sale, accounts of sales, through an auctioneer, shall, under orders of the Insolvency Judge, be filed in the record of the case of the insolvent

concerned as soon as they are no longer required. The Receiver may requisition, any of the registers or papers through the Insolvency Judge if required by him for the administration of any estate.

#### 465. Destruction of Registers consigned to record-room.

- The Registers consigned under the preceding rule to the record room shall be destroyed on the expiration of twenty years from the date of the last entry therein. Form No. 39(Rule 419)General Title of Insolvency PetitionIn the Court ofInsolvency Petition No. .... 19.....In the matter ofEx parte (here insert " the debtor" or A.B. or "creditor" or "the official Receiver" or "the Receiver").[Not Printed]Form No. 40(Rule 419)Debtors Petition(Title)I (a) ordinarily residing at (or carrying on business at or "personally

(a) Insert name and address working for gain at" or "inand description of debtor.

working for gain at" or "in custody at)" in consequence of the order of

(b) State name of court and being unable to pay my debts, particulars of decree in respect of which the order of detentionhas been made or by which an order of attachment has been madeagainst debtor's property.

being unable to pay my debts.

(c) State whether and how any of the debts are secured.

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 accounts) 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 (d) relating to my previous/petitions petition to be adjudged an insolvent.(d)The particulars required.-(i)Where a petition has been dismissed, reasons for such dismissal.(ii)where the debtor has previously been adjudged an insolvent, concise particulars of the insolvency including a statement whether any previous adjudication has been annulled and if so the grounds therefor verification clause as in complaints. SignatureForm No. 41(Rule 419)Notice to Creditors of the date of hearing of an Insolvency PetitionSection 19(Title)whereas A.B. .... has applied to this Court by a petition dated ..... of 19 to be declared an insolvent under the Provincial Insolvency Act V of 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 attend in person or by duly instructed pleader. The particulars of the debt alleged in the petition to be due to you are as follows :-Form No. 42(Rule 419)Order of AdjudicationSection 27(Title)Pursuant to a petition, dated.....against (here insert name, description and address of the 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. Dated this ..... day of 19.....Form No. 43(Rule 419)Order appointing a ReceiverSection 56(Title)Whereas pursuant to his application, dated ..... 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 ..... (for 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. DatedForm No. 44(Rule 419)Notice to creditors of the date of consideration of a Composition of Scheme of ArrangementSection 38 (1)(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. Form No. 45(Rule 419)Form under section 38(2)List of creditors for use at Meeting held for consideration of Composition or Scheme(Title)Meeting held at.....this day.....of 19.....

No.	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. 46Form of Notice Under Section 64(Rule 419)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 a final dividend without regard to such claim. Dated this ..... day of 19.....ToX.Y.(Address)Form No. 47(Rule 419)Order annulling 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.....JudgeForm No. 48(Rule 419)Notice to creditors of Application for dischargeSection 41(1)(Title)Take notice that the above-named insolvent has applied at 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), Act V of 1920, should be printed. Form No. 49(Rule 419)Order of discharge subject to conditions as to earnings after acquired property and incomeSection 41(2)(A), (B) Or (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 bearing 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 the official Receiver (or Receiver) within fourteen days of the filing of the said account. Dated this.....day of...19.....Judge Form No. 50(Rule 419) Notice of application by unscheduled creditor (Title) To Whereas an application has been made to this court by..... who claims to be creditor of..... whose application to be declared as insolvent was filed in this court on the.....day of. ....19....., for permission to produce evidence of the amount and particulars of his pecuniary claims against the insolvent, and for an order directing his name to be entered in the schedule as a creditor for the debts which he may prove; is to give you notice that the said application will be heard in this court on the.....day of....19, when you should appear personally, or by pleader, if you desire to object to it. Given under my hand and the seal of this court, the.....day.....of 19.....Judge Form No. 51(Rule 443) Receipt Book

Book No.	Serial No.	Book No.	Serial No.
Receipt Book	Receipt Book		
Received from.....	Received from.....		
Reference to the demand Register or other record	Particulars	Reference to the demand Register or other record	Particulars
Date of Realization	Date of Realization		
Initial of Official Receiver or of the Collecting agency	Initial of Official Receiver or of the Collecting agency		
Form No. 52(Rule 443) Receipt Book (Zamindari)			
Book No.	Received from tenant village No.	Estate of in bahikhata	
Receipt No.			

Date	By whom paid	Nature of holding	Kist and year	On what account	Whether partial or complete payment	Amount
Signature of Hawaldar						
Book No.	Received from tenant village No.	Estate of in bahikhata				
Receipt No.						
Date	By whom paid	Nature of holding	Kist and year	On what account	Whether partial or complete payment	Amount

year

Total brought forward Progressive total Signature of Hawaldar Receipt Book (Zamindari) (Duplicate copy)

Book      Receipt for Received from Estate of in  
No.      tenantvillageNo.      bahikhata  
Receipt  
No

Date	By whom paid	Nature of holding	Kist and year	On what account	Whether partial or complete payment	Amount
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Signature of Hawaldar

Book      Received from      Estate of in  
No.      tenantvillageNo.      bahikhata  
Receipt  
No

Date	By whom paid	Nature of holding	Kist and year	On what account	Whether partial or complete payment	Amount
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Total brought forward Progressive total Signature of Hawaldar Form No. 53 (Rule 444) Proof of debt  
General form Section 49 (Title) In the matter of ..... No. (a) of 19... of (b) make oath and say (or solemnly and sincerely affirm and declare):-

**1. That the said ..... was/were at the date of the petition, viz., day of 19.... and still is/are justly and truly indebted to me in the sum of Rs. p. for (c) as shown by the account endorsed hereon (or the following account), viz., for which sum or 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 or security whatsoever, save and except the following (d):**

Admitted to vote for Rs. Judge or Official Receiver. Sworn at..... this.....day of.....before me. Deponent's signatures Commissioner(a) Here insert' number given in the notice. (b) Address in full. (c) State consideration and specify the vouchers (if any) in support of the claim. (d) Here state details of securities, bills of the like. Form No. 54 (Rule 445) Proof of debt of workmen Section 49 (Title) I, (a) of (b) make oath and say (or solemnly and sincerely affirm and declare):- That (c) at the date of the adjudication, viz., the..... day of 19...., and still justly and truly indebted to the several persons whose 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 Eire 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. Judge or Official Receiver. Sworn at..... this.....day of.....before me. Deponent's signatures 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) "May employ" or "the employ of the above named debtor". (e) "Me" or the "above named debtor". Form No. 55 (Rule 460) Summary Administration Section 74 (Title) Notice to creditors Take notice that on the.....day of.....19, the abovenamed 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/-, directed that the debtor's estate be administered in a summary manner and appointed the.....day of.....19..., for further hearing of the said petition and 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 court, on or before that date. Given under my hand and the seal of this court, the day of..... Judge Register No. 51 Insolvency Register (Rule 334)

Date of application	Name of applicant with description and place of abode	Serial number of the Register	How received in court	
Whether received by transfer	Whether filed in court			
By debtors				
Under arrest or imprisonment	Not under arrest or imprisonment	By creditors		
1	2	3	4	5 6 7
How disposed of	Composition approved by Court under section 38	Whether any debtor sent for trial under section 69	Whether any undischarged insolvent sent for trial under section 72(2)	
Date of disposal	Transferred to what Court	Withdrawn under section 14	Dismissed under section 25	Order of adjudication granted under Section 27
A receiver being appointed	A receiver not being appointed			
8	9	10	11	12 13 14 15 16

Number of persons adjudged insolvents and their discharge	Date by which discharged is to be appointed for	Disposal by discharge or otherwise	Number absolutely discharged under section 41(2)(a)	Number Conditionally discharged under section 11(2)(c)	Number remaining undischarged Section 41(2)(b)			
Persons adjudged insolvents	Date							
Transferred to another Court undischarged	Died							
17	18		19	20	21	22	23	24

Note :-Columns 4-7 should be totalled monthly and the monthly totals added up annually: and the remaining columns 9, 14, 15, 16, 17, 19, 23 should be totalled annually, column 23 will furnish figures for column 17 of (Ret. 44) being the difference between the totals of column 17 and of columns 19-22 together. When a case is transferred to another court for disposal, columns 10-23 will not be filled up. The date to be entered in column 24 is the date on which the period fixed for the debtor to apply for his discharge expires. The dates of the expiry of the extended period should be noted in red ink below the original date. Register No. 52 Register of Insolvent s estates in the hands of receiver (Rule 334)

Date of appointment and name of Receiver	Number of case in Insolvency Register	Name of applicant	Amount of creditors claims	Assets realized	Disbursement	Creditor's claim not satisfied	Amount of realized assets in the hands ofReceiver section 62(1)	
Proved section 49	Disallowance Section 5	Date	Amount	Date	Remuneration of Receiver section 57(4)	Charges other than creditor's claims section62(1)(d)	Creditor's claims satisfied section 62(2)	Total
1	2	3	4	5	6	7	8	9

[Printed-Part II-34] Note.-Columns 4, 5, 7, 12, 13 and 14 should be totalled quarterly on receipt of the Receiver s statement and annually. Column 12 will be filled up when columns 9, 10 and 11 have been filled up. Register No. 78 Receiver s cash Book (Rule 435)

Date of receipt of income	Particulars of	Number	Amount	Reference to the	Date of Payment	Nature of payment of	Number	Amount	Reference to the
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	and from whom received with name of estate	receipts		personal ledger folio		and to whom paid with name of estate	cheque or the word cash		personal ledger folio
1	2	3	4	5	6	7	8	9	10

## Register No. 79 Receiver's Personal Ledger [Rule 443(8)]

Date Particulars Amount. Date Particulars Amount

1	2	3	4	5	6
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## Register No. 80 Receiver's Register of Insolvent's Movable Property [Rule 443 (11)] Name of estate.....

Serial No.	Description of Property	Number quantity or weight	Estimated value	Official Receiver's initials	Manner of disposal	Date of disposal	Amount for which disposed of	Remarks
1	2	3	4	5	6	7	8	9

## Register No. 81 Receiver's Register of Miscellaneous Demands [Rule 443(11)] Name of estate.....

Serial number	From whom due	Particulars of demand	Official Receiver's initials	Particular's of realisation					
Reference	Current	Arrears	Date of receipt	Number of receipt	Amount	Remarks			
1	2	3	4	5	6	7	8	9	10

## Register No. 82 Receiver's Register of Insolvent's Immovable Property [Rule 443(12)] Name of estate.....

Serial number	Description and situation of property	Extent of share and its approximate value	How managed with name of the lessee if any	If rented or leased amount thereof	Official Receiver's initials	Remarks
1	2	3	4	5	6	7

## Register No. 83 Receiver's Bahi-Khata [Rule 443(12)] Name of estate.....

Serial number	Name of tenant	Reference to the patwaris Khatauni	Period of lease	Nature of demand	Amount	Date and number of receipt	Amount	Balance	Remarks
1	2	3	4	5	6	7	8	9	10

Register No. 84 Receiver's Register of Insolvent's Book-Debts [Rule 443 (15)] Name of estate.....

Serial number	Date of document	Name and address of the party who executed the document	Amount	Official Receiver's initials	Particulars of collector	Remarks				
Month	Date	Principal	Interest	Date of realisation	Number of receipt	Amount realised				
1	2	3	4	5	6	7	8	9	10	11

Register No. 85 Register of Dividends [Rule 443(16)] Name of estate.....

Serial No.	Creditor's name	Amount of admitted debt	Secured of Scheduled	Reference to the Court's order	Official Receiver's initials	Rate of dividend paid	Date of payment	Amount paid	Remarks
1	2	3	4	5	6	7	8	9	10

Register No. 86 Register of suits by Receiver [Rule 443(19)] Name of estate.....

Serial No.	Particulars of suit	Date of filing the suit	Amount of suit	Date and amount of expenditure	Result of suit	Reference to entry in the demand register if the suit is decreed	Official Receivers initials	Remarks
1	2	3	4	5	6	7	8	9