

Rajasthan Official Trustees Rules, 1956

RAJASTHAN

India

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Rule RAJASTHAN-OFFICIAL-TRUSTEES-RULES-1956 of 1956

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Rajasthan Official Trustees Rules, 1956 Notification No. F. 6(2) Jud./56, dated 30-4-1956. Published in Rajasthan Gazette. Part 4-C. Ordinary, dated 28-7-1956. In exercise of the power conferred by Section 30 of the Official Trustees Act, 1913 (II of 1913), the Government of Rajasthan is pleased to make the following rules for carrying into effect the objects of the said Act and for regulating the proceedings of the Official Trustees of the State of Rajasthan.

1. Short Title.

- These rules may be called "The Rajasthan Official Trustees Rules, 1956".

2. Interpretations.

(1) In these rules, unless there is anything repugnant in the subject or context-(a) "the Act" means the Official Trustees Act, 1913 (II of 1913); (b) "the Bank" means the Bank of Jaipur Ltd.; (c) "Official Trustee" means the Official Trustee of the State of Rajasthan; (d) "State Government" means the Government of Rajasthan. (2) Unless the context otherwise requires, the General Clauses Act, 1897 of the Central Legislature shall apply for the interpretation of these Rules as it applies for the interpretation of a Central Act.

3. Rules under Section 7, sub-section (5) of the Act.

(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 State Government in each case. (2) The Official Trustee may, if he thinks fit, accept a trust which involves the management or carrying on of the 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 of the business shall not, save with the sanction of the State Government, last longer than one year.

4. Rules under Section 9.

- The prescribed manner of notifying the contents of a will under Section 9 of the Act shall be by delivering or sending by registered post, to the Official Trustee a certified copy of the will.

5. Fees under Section 17.

- The fees mentioned in Schedule I to these rules shall be the fees prescribed under Section 17 of the Act: provided that they may be reduced, compounded for or remitted as provided in these rules.

6. Reduction of fees.

- If in any case it appears to the Official Trustee that the circumstances of a trust are, or probably 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 case shall be submitted to the State Government in January every year.

7. Composition of fees.

- Where, in the 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 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 to the State Government in January every year.

8. Valuation for calculating fees under Section 17.

- For the purpose of calculating the fees under Section 17 of the Act, - (1) The value of any property shall be, - (a) in the case of a testamentary trust, the net value of the estate as valued for the purpose of the Court Fees Act, 1870 (VII of 1870) of the Central Legislature as adapted to Rajasthan, and (b) in any other 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 the carrying on of any trade or business, shall mean the gross receipts of such trade or business, deducting any advance made and any expenses incurred by the Official Trustee for the purpose of carrying on such trade or business.

9. Investment of cash balances.

- The cash balance standing to the credit of a separate account which represents the interest or income of investment or other property, and which is payable by way of annuity or otherwise to the person or persons entitled thereto, or standing to the credit of any depositor in the sundry estates deposit account, although it exceeds Rs.500/- in amount shall not be invested unless it can properly be treated as dead assets or dead funds.

10. Time of payment.

- Subject to any special arrangement made under rule 7, all fees payable under Section 17 of the Act shall be paid by, or debited to, the trusts on taking possession or on realization of the property, as the case may be, and no further fees shall be charged on distribution.

11. Method of payment of fees.

- The Official Trustees may, with the approval of the State 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.

- The account of each trust in regard to fees payable shall be adjusted every half year on the 30th June and 31st December: 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 these rules.

13. Fees under Section 22.

- The following shall be the prescribed fees for the purpose of Section 22 of the Act, namely:-(1)For copies of accounts, a fee calculated as 1 anna per folio with a minimum fee of Rs. 1/-. (2)For copy of a certificate of an auditor - Rs. 3/-. (3)For information on any single point in respect of any trust in which the account is open - Rs. 2/-. (4)For information or inspection of accounts, searches regarding trusts which have been closed - Rs.4/- per hour.

14. Disposal of fees.

- All fees realised by the Official Trustee shall be credited by him in his "Commission Account Ledger" and shall be paid by him at least once a month to the account and credit of the State Government into the Treasury.

15. Return of fees.

- The Official Trustee shall submit to the State Government at the close of each financial year as soon as possible a statement showing the fees and expenses incurred. The statement shall be termed

"The Financial Statement" and shall be submitted through the accountant General who shall verify the figures.

16. Accounts etc.

- The Official Trustee shall maintain the accounts and records specified in Schedule 11 to these rules.

17. Vouchers.

- 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 person in United Kingdom.

- All payments made to persons residing in the United Kingdom or outside India shall be made through the official agent to the Official Trustee at the office of the High Commissioner for India 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. Payment of moneys into treasury and accounting thereof.

(1) All moneys, received by, or tendered to, the Official Trustee in respect of any trust shall, without undue delay, be paid in full into the treasury and shall be included in the public account of the State. (2) Moneys received, or payments made, by the treasury on account of any trust shall be accounted for in a personal ledger account which shall be opened at the treasury in the name of the Official Trustee.

20. Investment of cash balances.

- Whenever the cash balance to the credit of the general account of any trust, after providing for ascertained current demands and outgoings, amounts to or exceeds Rs. 500/-, it may be invested in any of the securities permitted by these rules.

21. Audit.

(1) The accounts of the Official Trustee shall be audited twice a year by the auditors of the Examiner of Local Fund Accounts. (2) The accounts of the Official Trustee in regard to under administration shall be balanced every half-year, viz. on 30th June and 31st December. (3) The said accounts shall be examined by the auditor who shall report, thereon as provided in Section 19 (2) of the Act. The auditor shall examine the books specified in the 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 traveling and other reasonable expenses, which upon being

certified by the auditor, shall be paid by the Official Trustee and debited to the trust concerned.

22. Cost of Audit.

- The cost of and incidental to the audit and examination of the Official Trustee's accounts shall be fixed annually by the State Government and shall be rateably distributed as soon as possible after the close of each half year among the trusts concerned according to the value of their assets: Provided that :- (a) The State Government may, after considering the report of the auditor, enhance or reduce the percentage on particular estates in exceptional cases in which the audit has presented features of unusual difficulty or simplicity, and (b) in the event of the accounts of any estate being closed before the expiration of a half-year, the Official Trustee shall, in consultation with the auditor, fix a sum to be retained by him and debited to the trust in payment of the audit fees on that trust.

23. Audit of accounts of Zamindaries & business.

- The Official Trustee shall cause the local account of Zamindaris or jagir lands 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 the State 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 the State Government in any such case names the auditors who are to be employed.

24. Investments.

- 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 Trusts Act, 1882 (II of 1882).

25. Safe custody of securities.

(1) All 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 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.

- The Official Trustee shall make suitable arrangement in his office for the safe custody of cash, currency-notes and other sureties and other assets such as jewels, ornaments and articles of a like nature, and also title deeds and other documents belonging to the trust. 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 Rs. 500/- 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 State Government in this behalf, and if their value does not exceed Rs. 500/- he may either deliver them to such bank or firm for safe custody or retain them in the place provided in his office.

27. Credit of Funds transferred under Section 23.

- All funds transferred under the provisions of section 23 of the Act shall be paid to the account and credit of the State Government into the treasury and an intimation of such payment with particulars thereof shall be forwarded to the Accountant General, Rajasthan.

28. Prescribed authority under Section 24.

- The Secretary to the State Government in the Judicial Department shall be the prescribed authority for the purposes of Section 24 of the Act.

29. Destruction of papers.

- The Official Trustee may, after closing the accounts of any trust in his hands, destroy any private papers, bills, receipts, memorandum and other similar documents of no value which he has received along with the trust and which are not claimed by the beneficiaries or any other person entitled thereto or interested therein.

30. Management of Zamindaris.

- In order to secure efficient and economic management of Zamindaris or Jagir lands being trust properties under the charge of Official Trustee, the costs of the management of which are debitable to trust 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 manager 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 specifically 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 Zamindars, 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, where the property belonging to it is placed under the management of its own separate staff.

31. Report by official Trustee to State Government.

- The Official Trustee shall in January every year submit to the State Government a report in the form in Schedule III to these Rules.

I

(See Rule 5)

Part I – Capital Fees

(a)In respect of the duties of the Official Trustee where he has been appointed a trustee under Section 8, 9, 10, 11 and 12 of the Act, a fee of 5 per cent on the gross value of the trust property or fund, with a minimum of Rs. 20/-. (b)In respect of duties of the Official Trustee where he has been appointed a trustee, under Section 27 of the Administrator General's Act, 1913, the fees payable in those cases where the Official Trustee is not also the Administrator General of the same State shall be those specified under head (a) of the Schedule. (c)In respect of the duties of the Official Trustee where he has been expressly appointed executor and trustee as provided by sub- section (6) of Section 7 of the Act, the Official Trustee shall not be entitled to any remuneration or fees in his capacity as Executor and shall only be entitled to capital fees as trustee in accordance with the scale provided by this Schedule under head (a).

Part II – Investment Fees

(d)In respect of the duties of the Official Trustee in all cases of which he is the trustee on all capital moneys or trust funds invested by him including the purchase or sale of immovable property or any investment by way of mortgage a fee of 1/2 per cent on the amount of the investment or the value of any property purchased or sold, such fee being realised from income of the beneficiary requiring a change of investment and not from the gross value of trust.

Part III – Income Fees

(e)In respect of the duties of the Official Trustee acting in any capacities mentioned in Part I above in those cases where no fee is fixed and agreed to-on realisation of income whether arising out of movable or immovable property, a fee of 5 per cent on all moneys as and when received.

II

(See rule 16) I-Cash Book This book shall contain full particulars of all daily transactions whether in cash or otherwise and shall be balanced at the close of each day and checked and signed by the Official Trustee. II-Ledgers (a) General Trust Accounts Ledger. - Separate ledger accounts shall be kept in respect of each trust including separate subsidiary accounts, and each such accounts shall contain full and detailed particulars of all transactions and the same shall be posted up

daily.(b)Commission Account Ledger. - This ledger shall contain particulars of all fees and commission earned by, and paid to the Official Trustee.(c)Security Ledger. - This ledger shall contain particulars of all securities of whatsoever nature received or purchased by the Official Trustee on account of each trust and his dealings therewith.(d)Sundry Estates Deposits Account Ledger. - This ledger shall contain particulars of amounts deposited with the Official Trustee whether by tenants or employees and a separate deposit account shall be kept in the name of each depositor.(e)Miscellaneous Ledger. - This ledger shall contain entries relating to the following accounts:-(i)Petty receipts of closed Trust Accounts. - Containing entries of all sums transferred from general trusts to this account and payments made thereout;(ii)House Property Department Account. - Containing entries of all sums credited to this account from estates and payments made thereout;(iii)Filing Fee Account. - Containing entries of all sums transferred from the general trust accounts and payments made thereout;(iv)Income-tax Account. - Containing entries of all sums deducted on account of income-tax from any source whatsoever and of amounts paid over to the income-tax Collector;(v)Registration Fee and Postage Account. - Containing entries of all sums received on account of such fees and postage and sums paid thereout.Note:- All ledgers must be posted up daily, and closed half-yearly on the 30th June and 31st December, and the balances, if any, carried forward to a new account.III-Receipt BookThis book shall contain in a yearly consecutive series particulars of all sums of moneys, other than house rent received by the Official Trustee in cash or by cheques or drafts or in the form of securities or shares. All entries in this book shall be initialled by the Official Trustee, and in the case of cheques or drafts the date of realisation and sum realised should be filled up in due course.IV-Registers(i)Accounts Registers(a)Distribution Register. - Entries in this book shall indicate the manner in which a trust has been wound up, and particulars of accounts rendered.(b)Advance Register. - This book shall contain particulars of all advances made by the Official Trustee and how same have been adjusted.(c)Currency-note Register. - This book shall contain numbers and particulars of all Government Currency-notes of the value of Rs.500/-and upwards which pass through the office of the Official Trustee.(d)Estates transferred to Government Register. - This book shall contain particulars of moneys transferred to the credit of the State Government under the provisions of Section 23 of the Act and the dates of such transfers.(e)Remittance Register. - This book shall contain particulars of all remittances made to the India Office on account of trusts and the dates on which discharges have been obtained from the parties concerned.(ii)Security Registers(a)Security deposit register. - This book shall contain full particulars of securities of whatsoever nature deposited in the bank for safe custody.(b)Security withdrawal register. - This book shall contain full particulars of all securities of whatsoever nature withdrawn from the bank.(c)Security splitting register. - This book shall contain full particulars of all securities sent to the Bank for purposes of splitting, renewal, etc. and also particulars of other securities sent for subdivision or otherwise to any company.(d)Security enfacing register. - This book shall contain full particulars of all securities sent to the Bank for purposes of being enfaced for payment of interest.V-Trust RegisterThis book shall be in the nature of General Index to the other books kept in the department and shall contain the names of all trusts dealt with under consecutive serial numbers, date of each order of Court or deed, or other instrument appointing the Official Trustee, and reference to the ledger account and security ledger and names of persons entitled to the income.VI-Register of House Rent BillsThis book shall contain inter alia the following information :-Name of trust, particulars of property, name of tenant, particulars as to lease and rent payable, serial number of rent bills, date of realisation and amount of arrears carried forward at the end of

each month. The entries in this book as to the issue of rent bills and date of realisation thereof shall be initialled. It shall be optional with the Official Trustee to keep a separate register for any particular trust or estate. VII-Register of Tax Bills This register shall contain entries relating to all tax realisable from tenants, and the procedure to be adopted regarding entries in this book shall be the same as prescribed in the case of House Rent Register. VIII-Zamindari Accounts The account of any Zamindari appertaining to estate and all books, accounts and documents kept in connection therewith shall be as far as possible in the forms prescribed for the time being, and in use by the Court of Wards. IX-Register of Mortgages This book shall contain the following information :- (a) Name of trust. (b) Amount advanced on mortgage. (c) Date of advance. (d) Rate of interest. (e) When interest payable. (f) Date of repayment. (g) (Remark column in which shall be inserted any) remarks relating to action taken, if any. X-Audit Account This book shall contain the following information (a) Name of trust. (b) Amount retained or debited. (c) Date of debit. (d) Date of transfer to Government.

III

(See rule 31) Form A All Trusts whereof the final balances have been paid by the Official Trustee, State of Rajasthan, to the persons entitled to the same or to a new Trustee, specifying the amount of such balance and the persons to whom paid prepared from.....to.....19...

Payment							
Trust	Date of appointment	Date of payment of transfer	Government Securities	Bank of other stock, as well as bonds or other securities not being Government securities	Cash	Parties to whom paid	
			Rs.		Rs.		
Form B All sums of moneys, bonds or other securities received by the Official Trustee, State of Rajasthan on account of Trusts of which he is a Trustee remaining under his charge, together with payments made thereout and the balances, prepared from to 19.....							
Trust	Date of appointment	Government Securities	Balance on 1	Receipts up to 19	Government securities	Bank or other stock, as well as bonds or other securities not being Government securities	Cash
			Bank or other stock, as well as bonds or other securities not being Government securities	Cash			
To Credit	To Debit						
		Rs.		Rs.	Rs.	Rs.	Rs.

Total

Payments from.... to.....19		Balance on 19							
			Cash						
Government securities	Bank or other stock, as well as bonds or other securities not being Government securities	Cash	Government securities	Bank of other stock as well as bonds or other securities not being Government securities	Cash	Government securities	Bank of other stock as well as bonds or other securities not being Government securities	To Credit	To Debit
Rs.		Rs.	Rs.		Rs.	Rs.		Rs.	Rs.