

CHAPTER 4-C

PART C—GENERAL RULES MADE BY THE HIGH COURT WITH THE PREVIOUS SANCTION OF THE STATE GOVERNMENT UNDER SECTION 79 OF THE PROVINCIAL INSOLVENCY ACT.

1. These rules may be cited as "The Punjab Insolvency Rules" and shall apply to all proceedings under the plaction. Provincial Insolvency Act, 1920.

Title and application.

2. The forms annexed to these rules (printed at the Adaptation of end of this Chapter), with such variations as crcumpres stances may require, shall be used for the matters to which they severally relate.

Adaptation of forms prescribed.

3. (i) In these rules, unless there is anything repugnant in the subject or context

Definitions.

"The Act" means the Provincial Insolvency Act, 1920.

"Receiver" means a Receiver appointed by the Court under section 56(1) of the Act.

"Interim Receiver" means a Receiver appointed by the Court under section 20 of the Act.

"Proved debt" means the claim of a creator so far as it has been admitted by the Court, or by the Official Receiver empowered under section 80(1)(b) of the Act.

(ii) Unless there is anything repugnant in the context, words and expressions used in these rules shall have the same meanings as those assigned to them in the Act, and references to sections shall be taken to be references to sections of the Act.

4. A petition for insolvency under the Provincial Insolvency Act may be filed by or against any individual or firm but not against any association, corporation or company registered under any enactment for the time being in force.

Persons by or against whom a petition for insolvency may be filed.

Insolvency
Notice.

4A. (1) A creditor, desirous that an insolvency notice under sub-section (2) of section 6 of the Act may be issued, shall produce a certified copy of the decree or order on which the notice is found and file the notice together with a request to the Court for issue. The creditor shall at the same time lodge with the Court two copies of the insolvency notice to be sealed and issued for service :

Provided that the notice if required to be served upon a debtor residing, whether permanently or temporarily, outside India, shall not be issued unless prior leave of the Court is obtained for the service thereof by making an application in that behalf.

(2) The insolvency notice to be given under sub-section (2) of section 6 of the Act shall be in Form 2-A.

Service.

4B. (1) The insolvency notice shall be served on the debtor personally or by registered post acknowledgment due.

(2) If the notice is refused or unserved for any other reason, it shall be published in the daily newspaper circulating in the locality in which the debtor is last known to have resided, carried on business or personally worked for gain.

Registers prescribed for entry of insolvency petitions and other applications.

5. (a) Every insolvency petition shall on institution be entered in Civil Register of Miscellaneous cases (Register No. II) in all Courts exercising insolvency jurisdiction and shall be given serial number in that register. If the petition results in adjudication, the case should be entered in the Register of persons adjudicated insolvents to be maintained in Form No. 15 attached at the end to these rules and all entries relating to proceedings subsequent to adjudication should be made in this register.

(b) Miscellaneous applications under sections 4, 53, 54 and 69 of the Provincial Insolvency Act should be entered in Civil Register No. VI (Register of Miscellaneous Petitions) which is the proper register for entering such applications. A separate register should be maintained in this form for insolvency cases.

6. All Insolvency proceedings may be inspected by the Receiver, the debtor, and any creditor, who has proved, or any legal representative on their behalf at such times and subject to the same rules as other court records (vide for Volume IV, Chapter 16-Records) provided that no fee shall be charged for inspection made by the Receiver.

Persons entitled to inspect proceedings and fees for inspection.

NOTICES

7. Whenever publication of any notice or other matter is required by the Act to be made in an official gazette, a memorandum referring to, and giving the date of, such advertisement shall be filed with the record and record. noted in the order-sheet.

Memorandum of publication in Gazette to be kept on record.

8. (i) Notices of order fixing the date of the hearing of of petition under section 19(2) may, in addition to the publication thereof in the official gazette, be also advertised in such newspaper or newspapers as the Court may direct. A copy of the notice shall also be forwarded by registered post to each creditor, to the address given in the petition, or served on the creditor in the manner prescribed for the service of summonses, as the Court thinks fit. The same procedure shall be followed in respect of notices of the date for the consideration of the proposal for composition or scheme of arrangement under section 38(1).

Manner of notifying dates of hearing.

(ii) Where the petition is by a creditor a notice shall be served on the debtor in the manner prescribed for the service of summonses.

9. Notices of order of adjudication under section 30 shall be published in the official gazette and may also be published in such newspaper or newspapers as the court may think fit. When the debtor is a Government servant, a copy of the order shall be sent to the head of the office in which he is employed.

Manner of notifying, order of adjudication and orders canceling adjudication.

The same procedure shall be followed in regard to notice of orders, annulling adjudication under section 37 (ii).

Persons on whom notices under Section 33(3) are to be served.

10. The notices to be given under section 33(3) of the Act shall be served only on the Receiver and on the creditors who have proved their debts and may, if the Court so direct, be served on any or all such creditors by registered post.

Service of notice under Section 50.

11. 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.

Service of notice under section 64.

12. The notice to be issued by the Receiver under Section 64 before the declaration of a final dividend to the section person whose claims to be creditors have been notified, but not proved, shall be sent through the post by registered letter.

Creditors to file address for service.

13. When the creditors appear in Court in answer to the notices issued under section 19(2) of the Act or appear to prove their debts, they shall be required to give their addresses for service by post.

Manner of notifying date of hearing of discharge applications.

14. Notices of the date of hearing of application for discharge under section 41(1) shall be published in the official gazette and may also be published in such news-papers as the Judge may direct, and copies shall be sent by Registered post to all creditors, whether they have proved or not, or served on them in the manner prescribed for service of summons, as the Court thinks fit.

Proof of Service by Post.

15. A certificate of an officer of the Court or of the Official Receiver or an affidavit by a Receiver that any of the notices referred to in the preceding rule has been duly posted, accompanied by the post-office receipt, shall be sufficient evidence of such notice having been duly sent to the person to whom the same was addressed.

Court's discretion to adopt any other mode of service.

16. In addition to the methods of publication prescribed in these rules, the notices issued thereunder may be served in the discretion of the Court in such other manner as the Court may direct, for instance, by affixing copies on the Court house or by beat of drum in the village where the insolvent resides.

17. Every notice issued under rules 7, 8, 11 and 12 shall be published or issued at least 14 days before the doing of the act of which warning is given in such notice.

Notices should be issued or published a fortnight before date.

Note.—Every notice is to be sent by registered post with acknowledgement due. Service stamps should ordinarily be used and the cost thereof drawn from the deposit made under Rule 55 of this Chapter or from the funds of the Estate concerned and credited to "065—Other Administrative Services—Administration of Justice—Other Receipts" with full details of recoveries entered in the Treasury Challan or repayment voucher, as the case may be.

Mode of recovery of cost of service stamps.

RECEIVERS AND INTERIM RECEIVERS

18. 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 debtors and forwarded to the person appointed.

Order for appointment of a receiver to be served on the debtor.

19. Every Receiver or Interim Receiver, other than an Official Receiver, shall be required to give such security as the Court thinks fit. (As regards security to be taken from Official Receivers, See Chapter 4-D of this Volume).

20. As soon as the Schedule of creditors has been framed, a copy thereof shall be supplied to the Receiver or Interim Receiver, as the case may be, and all subsequent entries and alterations made therein, shall be communicated to the Receiver or the Interim Receiver.

Schedule of creditors & all subsequent entries in it to be notified to receiver.

21. (i) A Court when fixing the remuneration of Receiver should, as a rule, direct it to be in the nature of a commission of percentage not exceeding 7½ per cent of the amount of the dividends, of which one part should be payable on the amount realized, after deducting any sums paid to secured creditors out of the proceeds of their securities and the other part on the amount distributed in dividends.

Remuneration of Receiver.

This commission is intended to cover all office expenditure including cost of establishment, if any, to be

maintained by the Receiver for the discharge of his duties, and contingencies such as purchase of account books and forms and issue of notices, etc., incurred by the Receiver in connection with the administration of the Insolvents' estates.

(ii) Where a Receiver realizes the security of a secured creditor, the Court may direct additional remuneration to be paid to him with reference to the amount of the work which he has done and the benefit resulting to the creditors.

(iii) If a Receiver has been appointed in an insolvency proceedings in which the Court makes an order approving a proposal under section 39, the remuneration to be paid to the Receiver shall be fixed by the Court, and the order approving the proposal shall make provisions for payment of the remuneration and shall be subject to the payment thereof.

(iv) When the office of an Official Receiver falls vacant on account of his death, suspension, dismissal or proceeding on leave, a particular person shall be appointed as ad hoc Receiver by the Court in each case under section 56 of the Provincial Insolvency Act, the person being nominated by the High Court. The Receiver so appointed shall draw commission and administration charges at the rates admissible to an Official Receiver under Rule 1 of Chapter 4-B, Rules and Orders, Volume

Remuneration
of interim
receiver.

22. If a person is specially appointed an Interim Receiver and is afterwards appointed Receiver in the case, his realizations in both the capacities can be treated alike and the ordinary commission charged. Other cases, in which an interim Receiver does work, but there is no adjudication or substantive receivership, are few, but in them if any real work is done beyond the taking charge of such insignificant movables as the debtor produces voluntarily, it will probably have to be done quickly and be of a definite character and if any remuneration has to be fixed separately in those cases, it should be such sum as the Insolvency Judge may decide on the Receiver's

appointment, subject to a maximum of one per cent on the estimated value of the property.

23. The Court should be careful to take adequate security from the Receiver with due regard to the value of the assets likely to pass through his hands.

Receivers should security, give amount and form of security bonds.

The Court should use due discretion in fixing the amount of security to be taken in such cases. It is suggested as a principle which might usefully be adopted that the amount should roughly be equal to half the average annual realizations calculated on the realizations of the last five years.

The forms of security and security bonds should be the same as those prescribed for Official Receivers in Chapter 4-E, of this Volume, the word "General" being substituted for the word "Official" wherever it occurs in the Bond.

24. The Receiver shall keep a Cash Book, a Dividend Register, and such other books as may be required to give a correct view of his administration of the Estate, and shall submit his accounts at such times and in such forms as the Court may direct. In the absence of any such directions, the Receiver shall submit to the Court for each quarter, not later than the 10th day of the month next following, an account showing all the receipts and disbursements in cases in which he is a Receiver. The Receiver's accounts shall be audited by the Local Audit Department of the Accountant General, Punjab, Haryana, Chandigarh Administration, as the case may be. The cost of the Audit shall be paid out of the estate at the rate of 1¼ per cent of the total realizations.

Books to be kept by the Receiver. Submission of accounts and their audit.

A receiver, appointed under Rule 21, clause (iv), above shall continue to keep all registers and accounts in the same form and on the same system as are prescribed for Official Receivers in Part E of this Chapter.

25. Receivers should not amalgamate their transactions relating to interim proceedings with those of Insolvent Estates.

Transactions of interim proceedings should be kept separate.

Cash realized by interim Receiver not to be mixed up with insolvents Estates Fund.

26. The cash which is realized or collected by an Interim Receiver should be deposited in the State Bank of India or some other approved Bank and not mixed up with the Insolvent Estates Fund of which an account is kept in the treasury.

Books kept by Interim Receiver.

27. An Interim Receiver shall be required to maintain only the following books and forms :—

(i) A Cash Book in Form No. 15 of Official Receiver (appended at the end of Ch. 4-E).

(ii) A Receipt Book in Form No. 9 of Official Receiver (appended at the end of Ch. 4-E).

(iii) A Property Register in Form No. 16 (given at the end of this Chapter).

No audit of Interim Receiver's accounts require.

28. A separate audit of interim accounts is unnecessary because if the interim appointment leads to full receivership after adjudication the Interim Accounts will be incorporated in the Receiver's accounts which will then be audited as such in the usual way. If, however, the petition for insolvency is dismissed, no audit is required because the debtor would, under the circumstances, himself take back the estate from the Interim Receiver.

Proved creditor entitled to a copy of receiver's accounts.

29. 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.

Directions as to safe custody of valuable securities and cash secured by receiver and as to the investment of sums exceeding Rs. 500.

30. The Receiver shall deposit all valuable securities, and cash for safe custody with the Nazir (who shall enter the same in the Malkhana Register to be maintained in form 22 and paste a label thereon in form 23 as prescribed for Official Receivers at the end of Part E of this Chapter or in the State Bank of India. or any other approved Bank,

as the Court may direct and whenever a sum exceeding Rs. 500 shall stand to the credit of any one Estate, the Receiver shall give notice thereof to the Court; and, unless it shall appear that a dividend is about to be shortly declared, he shall obtain the Court's order as to investment of the same in a suitable manner, e.g., in securities or as a fixed deposit with a Bank, etc.

31. (i) The Court may remove or discharge any Receiver or Interim Receiver, and any Receiver or Interim Receiver so removed or discharged shall, unless the Court otherwise orders, deliver up any assets of the debtor in his hands and any books, accounts or other documents relating to the debtor's property which are in his possession or under his control, to such person as the Court may direct.

Duty of receiver to deliver up assets and books, etc., on being removed, or on annulment of adjudication.

(ii) If an order of adjudication is annulled, the Receiver, if any, shall unless the Court otherwise orders, deliver up any assets of the debtor in his hands and any books, accounts or other documents, relating to the debtor's property, which are in his possession or under his control, to the debtor, or to such other person as the Court may direct.

32. (i) Unless the Court otherwise directs, the Receiver or Interim Receiver shall, as soon as may be, after his appointment, and in any case before the hearing of the debtor's application for discharge, draw up a report upon the cause of the debtor's insolvency, the conduct of debtor so far as it may have contributed to his insolvency and also his conduct during the insolvency proceedings, and in particular such report shall state specifically whether any of the facts mentioned in each of the clauses of or sub-section (1) of section 42 exist or do not exist.

Receiver shall submit an early report as to conduct of the debtor and other matters.

(ii) If the debtor submits a proposal under section 38(1) of the Act, the Receiver shall state in his report whether in his opinion the proposal is reasonable and is likely to benefit the general body of the creditors and shall state the reasons for his opinion.

33. Every Receiver or Interim Receiver shall be deemed for the purposes of the Act and of these rules to be deemed an officer of the Court.

Receiver to be deemed an Officer of the Court

PROOF OF DEBTS

Proof of debt
by affidavit.

34. A creditor's proof may be by an affidavit in Form No. 6 with such variations as circumstances may require.

Proof of wages of
workmen etc.,
employed by the
debtor.

35. In any case in which it appears from the debtor's statement that there are numerous claims for wages by workmen and others employed by the debtor, it shall be sufficient if one proof for all such claims is made either by the debtor or by some other person on behalf of all such creditors. Such proofs should be in Form No. 7.

DIVIDENDS

Provisions as to
declaration of
dividend
notifying its
distribution and
remission and
other connected
matters.

36. (i) A dividend should be declared in each estate ordinarily every six months, i.e., on the 1st July and the 1st January, each year.

(ii) If sufficient funds are not available for a particular dividend in any particular estate a report to this effect should be made to the Court for orders on these dates.

(iii) No dividend shall be distributed by a Receiver without the previous sanction of the Court.

(iv) Notice that the distribution of a dividend has been sanctioned shall be sent by the Receiver, or, if there is no Receiver by the Court, to every creditor, who has proved a debt, by registered post within one month from the date of the order sanctioning the distribution.

(v) An order shall not be made under section 65 of the Act without giving the Receiver an opportunity to show cause why the order should not be made.

(vi) The amount of the dividend may, at the request, expense and risk of the creditor, be transmitted to him by post.

But if the amount is under rupees twenty, the Official Receiver may, after due notice, remit the sum by post to the creditors concerned at their expense and risk even when no formal request has been made by them.

(vii) Where the assets in the hands of the Official Receiver are too small for distribution as dividend, e.g., a rupee or so, these sums may be treated, with the permission of the court in each case, as "unclaimed" by creditors and eventually lapsed to Government.

PROCEDURE WHERE THE DEBTOR IS A FIRM

37. Where any notice, declaration, petition or other document requiring attestation is signed by a firm of creditors or debtors in the firm's name, the partner signing for the firm shall also add his own signature, e.g., "Brown & Co., by James Green, a partner in the said firm".

Mode of signing on behalf of the firm.

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

Mode of personal service on a firm.

39. 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 name or style other than his own.

The preceding rule to apply to persons not carrying on business in their own name.

40. Where a firm of debtors files an insolvency petition, the same shall contain the names in full of the individual partners, and if such petition is signed in the firm's name the petition shall be accompanied by an affidavit made by the partner who signs the petition showing that all the partners concur in the filing of the same.

Insolvency petition by a firm should show names of all the partners and an affidavit that all Partners concur in the filing of the petition.

41. An adjudication order made against a firm shall operate as if it were an adjudication order made against each of the persons who at the date of the order are for that firm.

Adjudication order against a debtor firm shall operate against all individual partners.

42. In cases of partnership, the debtors shall submit Each partner a schedule of their partnership affairs, and each debtor shedule of his shall submit a schedule of his separate affairs.

Each partner shall submit a schedule of his separate affairs.

43. The joint creditors and each set of separate creditors, may severally accept composition or schemes of arrangement. So far as circumstances will allow, a proposal accepted by joint creditors may be approved in the prescribed manner, notwithstanding that the proposals or proposal of some or one of the debtors made to their or his separate creditors may not be accepted.

Composition with a firm. Annulment of adjudication where a composition or scheme is approved.

44. Where proposals for compositions or schemes are made by a firm and by the partners therein individually, the proposals made to the joint creditors shall be considered and voted upon by them a part from every set of separate creditors and the proposal made to each separate set of creditors shall be considered and voted upon by such separate set of creditors apart from all other creditors. Such proposals may vary in character and amount. Where a composition or scheme is approved, the adjudication order shall be annulled only so far as it relates to the estate, the creditors of which have confirmed the composition or scheme.

Disposal of assets of a separate firm formed by some members of a partnership.

45. If any two or more of the members of a partnership constitute a separate and independent firm the creditors of such last mentioned firm shall be deemed to be a separate set of creditors and to be on the same footing as the separate creditors of any individual member of the firm. And when any surplus shall arise upon the administration of the assets of such separate or independent firm, the same shall be carried over to the separate estates of the partners in such separate and independent firm according to their respective rights therein.

SUMMARY ADMINISTRATIONS

Special procedure in case of summary administration.

46. When an estate is ordered to be administered in a summary manner under section 74 of the Act, the provisions of the Act and Rules shall, subject to any special direction of the Court, be modified as follows, namely :—

- (i) There shall be no advertisement of any proceedings in the local official gazette or any newspaper;

- (ii) the petition and all subsequent proceedings shall be endorsed "summary case";
- (iii) the notice of the hearing of the petition to the creditors shall be in Form No. 14;
- (iv) the court shall examine the debtor as to his affairs, but shall not be bound to call a meeting of creditors but the creditors shall be entitled to be heard and to cross-examine the debtor;
- (v) the appointment of a Receiver will often not be necessary and the Court may act under section 58 of the Act in order to reduce the cost of the proceedings. The administration charges, however, shall be levied at the same rates as ordinary cases. These charges should be credited into the treasury under Head XXI—Administration of Justice—Misc. Fees and Fines—Insolvency Court Receipts, except those representing the cost of audit, which should be credited under Head XLVI—Miscellaneous Fees for Government Audit;
- (vi) the ordinary Nazarat staff should be employed for conducting sales;
- (vii) the only registers which need be kept are the Cash Book, the Dividend Register, the Register of Property and such other Registers as may be required to give a correct view of the administration of the estate.

PROSECUTIONS

47. Before passing an order for making a complaint of any offence referred to in section 69 the Court shall issue a notice to the debtor calling upon him to show cause why such an order should not be passed against him.

Notice shall be given to debtor before lodging a complaint.

DISCHARGE

48. An application for discharge shall not ordinarily be heard until after the schedule of creditors has been framed and the Receiver has submitted his report (vide Rule 32). The Receiver, if he is in a position to make it and has not already done so, shall file his report in Court not less than fourteen days before the date fixed for the hearing of the application.

Application to be heard only after submission of creditor's schedule and receiver's report.

Proved creditors only may oppose discharge.

In the matter of discharge court shall examine the debtor and may hear the receiver, the debtor and creditors.

Procedure where debtor fails to apply for discharge Within the fixed period or where no period has been fixed.

49. Every creditor who has proved shall be entitled in person or by pleader to appear at the hearing and oppose the discharge.

50. At the hearing of the application the Court may hear any evidence which may be tendered by a creditor and also any evidence which may be tendered on behalf of the debtor and shall examine the debtor, if necessary for the purpose of explaining any evidence tendered and may hear the Receiver, the debtor, in person or by pleader, and any creditor in person or by pleader.

51. Any case in which the debtor fails to apply for his discharge within the period allowed by the Court under section 27 shall be brought up for orders under section 43. If the Court has omitted to specify a period under section 27(1), and the debtor has not already applied for discharge, the Court upon receipt of the Receiver's report shall fix a period within which the debtor shall apply for an order of discharge. Notice of such period shall be given to the Receiver and the debtor, and if on its expiry the debtor has not applied accordingly, the case shall be brought up for orders under section 43.

SALE OF IMMOVABLE PROPERTY

Sale by Court and preparation of sale deed where no Receiver is appointed.

52. 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 need of sale of the said property shall be prepared by the purchaser at its own cost and shall be signed by the Presiding Officer of the Court. The cost of registration (if any) will also be borne by the purchaser.

Sale shall ordinarily be by public auction

53. As a rule property should be sold by public auction at the spot. Full particulars of the property and incumbrances, if any, should be made known by customary methods, such as proclamation, beat of drum, hand bills, etc., sales in any other manner and at any other place should only be made with the sanction of the Court.

COSTS

Cost up to order of adjudication shall be borne by petitioner but subsequent Mt shall be met out of the estate.

54. 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 on the petition of a creditor the cost of the petitioning creditor including the

costs of the publication of all notices required by the Act or Rules shall be taxed and be payable out of the Estate.

Note.—All expenses including the expenses of any travelling done by an Interim Receiver with the permission of the Court granted after hearing the applicant have to be met by the party prosecuting the application according to this rule, and if these expenses are not furnished the application for insolvency should be filed.

55. A person applying to be adjudicated an insolvent shall deposit a fee of at least Rs. 20 or such further sums, if any, as the Court may, from time to time, direct to cover the cost of the issue of the prescribed notices, of their publication in the Official Gazette and of all other proceedings under the Act, down to and including the making of an order of adjudication. Each such deposit shall be treated as Revenue Deposit and entered in the Register of Receipts prescribed in Chapter 8-E of this Volume.

Initial deposits by debtor to cover costs. This deposit shall cover postal charges but not process fees.

Note No. 1.—This deposit does not cover process fees, which shall be realized as usual, in Court fee stamps according to the rules

Process fee shall be paid in court fee stamps.

Note No. 2.—This deposit is meant not only for paying the expenses of publication of certain notices in the official gazette, but also to cover the postage costs of issue of the prescribed notices and all other proceedings under the Act down to and including the making of the order adjudication.

Initial deposit to cover all costs up to order of adjudication.

Note No. 3.—The amount of undisbursed balance of these deposits should be transferred to the insolvent's assets after adjudication. Except as otherwise provided for, all expenses incurred after the order of adjudication can be met out of these assets.

Disposal of balance of initial deposit.

56. No cost incurred by a debtor in connection with an application to approve of a composition or scheme shall be allowed out of the estate if the Court refuses to approve the composition or scheme.

Cost of a debtor about composition or scheme when to be allowed out of the estate.

57. If the assets available are not sufficient in any case for taking proceedings necessary for the administration of the estate, the Receiver or Interim Receiver or Official Receiver, as the case may be, may call upon the creditors or any of them to advance the necessary funds or to indemnify him against the cost of such proceedings. Any assets realized by such proceedings, shall be applied,

Cases when creditors shall supply funds for administration of the estate repayment of small funds.

in the first place, towards the repayment of such advances with interest thereon at 6 per cent per annum.

APPOINTMENT AND PROCEDURE OF THE COMMITTEES OF INSPECTION UNDER SECTION 67-A OF THE PROVINCIAL INSOLVENCY ACT

Appointment and procedure of Committees of Inspection.

58. The following rules have been framed with respect to the appointment and procedure of Committees of Inspection :—

Number of members.

(1) In any case in which the Court authorises the creditors to appoint a Committee of Inspection pursuant to the provisions of section 67-A of the Act, the Court shall, by the order of adjudication, fix a date for the holding of a meeting of the persons qualified to vote for the purpose of selecting the members of the Committee. A notice mentioning the date fixed shall be put up on the Notice Boards of the Court and the Official Receiver.

(2) A Committee of Inspection shall consist of not more than five, not less than three persons.

(3) A Committee of Inspection shall meet at such time as they shall, from time to time, appoint, and failing such appointment at least once a month, and the Official Receiver or any two members of the Committee may call a meeting as and when necessary.

Committee shall act only by a majority.

(4) A Committee of Inspection may act by a majority of members present at a meeting, but shall not act unless a majority of the Committee is present at the meeting.

Mode of resignation by a member.

(5) Any member of the Committee may resign his office by notice in writing signed by him and delivered to the Official Receiver.

When a member vacates his office.

(6) If a member of a Committee becomes insolvent or if absent from five consecutive meetings of the Committee, his office shall thereupon become vacant.

- (7) Any member of a Committee may be removed of by a resolution at any meeting of the creditors of which seven days notice has been given stating the object of the meeting. Removal of a member
- (8) On a vacancy occurring in the Office of a member of a Committee, the Official Receiver shall forthwith summon a meeting of creditors for the purpose of filling the vacancy and the meeting may, by resolution, appoint another creditor or other person eligible as above to fill the vacancy. Filling up a vacancy.
- (9) The continuing members of the Committee of Committee Inspection, provided there be not less than two such continuing members, may act notwithstanding any vacancy in their body and when the number of members of a Committee is for the time being less than five, the creditors may increase their number so that it does not exceed five. Committee may act notwithstanding vacancy.
- (10) When a Committee has been appointed, the Official Receiver shall, in the administration of the property of the insolvent and in the distribution thereof amongst his creditors, have regard to any suggestions that the Committee may give the by resolution. If the Official Receiver thinks that any suggestion of the Committee is not in the interests of the general body of creditors, he may report the matter to the Court which will give such instructions as it may consider just and necessary. Receiver to obtain orders of Court when he does not agree with the suggestions of the Committee.
- (11) The Court shall afford an opportunity to the Committee of inspection for being heard before orders are passed on any such report submitted by the Official Receiver. The committee shall be heard before court passes order in the above case.
- (12) The Court may, in order to decide the matter in dispute, call a meeting of the general body of creditors and consider their views before arriving at a conclusion. Court may call a meeting of the general body of creditors.
- (13) The Official Receiver shall ordinarily act as the Secretary of the Committee and maintain a record of its proceedings in a bound register. Official Receiver shall be Secretary of the Committee.

Action of a member not to be vitiated by defect in his appointment..

(14) No defect or irregularity in the appointment or selection of a member of the Committee of Inspection shall vitiate any act done by him in good faith.

Receiver shall allow inspection of records to members and give other information and assistance.

(15) The Official Receiver shall afford all the members of the Committee both individually and collectively, reasonable facilities to examine at his office any of his records and registers during the working hours of the Court. The Official Receiver shall also give the Committee and its members any information which they require and give them every assistance and facility in the discharge of their functions.

FORMS IN INSOLVENCY PROCEEDINGS

FORM NO. 1

GENERAL TITLE

In the Court of _____

Insolvency Petition No. _____ of 19 .

In the matter _____.

Ex parte (here insert "the Debtor" of "A.B. or creditor" "the Official Receiver" or "the Receiver").

FORM NO. 2

DEBTOR'S PETITION

(Section 13)

In the court of _____

Insolvency Petition No. _____ 19 .

- (1) (a) _____ ordinarily residing at (or "carrying on business at" or "personally working for gain at", or "in custody at") in consequence of the order of (b) being unable to pay my debts, hereby petition that I may be adjudged an insolvent. The total amount of all pecuniary claims against me is Rs. _____ (c) as set out in detail in Schedule A annexed hereunto which contains the names and residences of all my creditors so far as they are known to or can be ascertained by me. The amount and particulars of all my property are set out in Schedule B annexed hereunto together with a specification of all my property not consisting of
- (a) Insert name and address and description of debtor.
- (b) State name of Court and particulars of decree, in respect of which the order of detention has been made only whereas an order of attachment has been made against debtor's Property.
- (c) State whether and how many of the debts are secured.

money and the place or places at which such property is to be found and I hereby declare that I am willing to place all such property at the disposal of the Court save in so far as it includes such particulars (not being my books of account) as are exempted by law from attachment and sale in execution of a decree.

I have not on any previous occasion filed a petition to be adjudged an insolvent or I set out in Schedule C particulars relating to my previous petition/petitions to be adjudged an insolvent.

Signature.

FORM No. 2-A

INSOLVENCY NOTICE

(See rule 4-A (2) read with section 6 of Provincial Insolvency Act, 1920, as amended).

IN THE COURT OF _____

In the matter of _____

To

A.B. or (A.B. & Co.) _____ of _____:

Take notice that within 30 (Thirty) days after service of this notice on you (excluding the day of such service), you must pay to _____ (full name and description of the creditor) or his duly authorised agent _____, the sum of Rs. _____ (state the exact amount due), claimed by the aforesaid creditor, against you in the _____ Court, dated _____, which has become final and execution whereof has not been stayed, or you must furnish security for the payment of the said sum to the satisfaction of the aforesaid creditor or his agent, within the above prescribed period.

You are specially to note that the consequences of not complying with the requisitions of this notice are that you will have committed an act of insolvency on which insolvency proceedings may be taken against you unless you make an application within the period prescribed for compliance thereof for setting it aside under sub-section (5) of Section 6 of the Provincial Insolvency Act, 1920 and in that event you will be deemed to have committed an act of insolvency as from the date stipulated in clause (b) of proviso to sub-section (2) of Section 6 *ibid.*

Name and address of the person/Advocate suing out the notice.

Dated this _____ day of _____ 19

Judge.

VERIFICATION CLAUSE AS IN PLAINTS

SCHEDULE A--(DEBTS)

Name of Creditor	Residence of creditor	Amount of debt	Nature of debt	Security		Remarks
				Nature	Amount	
1	2	3	4	5	6	7

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

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

SCHEDULE B (ASSETS)

(1) Movable and Immovable Property

Description of property	Place where situated	In whose possession	In the case of land		Value of property	If mortgaged state	
			Name of estate and holding No.	Area			

Column 9.—In the remarks column, state if petitioner is only part owner of the property and, if so, who the other owners are, and what his share in the property is,

(2) Debts owing to petitioner

Name of debtor	Residence of debtor	Nature of debt	Amount of debt	When contracted	Good bad or doubtful	Security	Amount	Remarks
						Nature		
1	2	3	4	5	6	7	8	9

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

SCHEDULE C

FORMER PETITIONS FOR INSOLVENCY
BY THE PETITIONER

Serial No.	Date of Petition	Date of adjudication, if any	Date and description of final order on the former petition	(a) Remarks
1	2	3	4	5

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

FORM NO. 3

NOTICE TO CREDITORS OF THE DATE OF HEARING
OF AN INSOLVENCY PETITION

(Section 19)

INSOLVENCY PETITION NO. _____ OF 19

In the Court of _____

Whereas A.B. has applied to this Court by a petition, dated _____ to be declared an insolvent under the Provincial Insolvency Act, 1920. and your name appears in the list of creditors filed by the aforesaid debtor, this is to give you notice that the Court has fixed the _____ day of 19 _____, for the hearing of the aforesaid petition and the examination of the debtor. If you desire to

be represented in the matter, you should 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 :—

Judge.

FORM NO. 4

ORDER OF ADJUDICATION

(Section 27)

In the Court of _____
Insolvency Petition No. _____ of 19

Pursuant to a petition, dated, _____ against (here insert name, description, and address of debtor) and on the application of (here insert "the Official Receiver" or "the debtor himself" or "A.B. of a creditor") and on reading and hearing it is ordered that the debtor be and the said debtor is hereby adjudged insolvent.

It is further ordered that the debtor do apply for his discharge within

_____ -(a)

on or before

Dated this _____ day _____
of _____ 19 _____ .

Judge.

(a) Here state the period or the date on or before which the insolvent must apply for his discharge.

FORM NO. 5

ORDER APPOINTING RECEIVER

{Section 56}

IN THE COURT OF _____
INSOLVENCY PETITION NO. _____ of 19

Whereas A.B. was adjudicated an insolvent by order of this Court dated _____ and it appears to the Court that the appointment of a Receiver for the property of the insolvent is necessary.

It is ordered that receiving order be made against the insolvent and a receiving order is hereby made against the insolvent and A.B. of (or the Official Receiver) is hereby constituted Receiver of the property of the said insolvent. And it is further ordered that the said

Receiver (not being the Official Receiver) do give security to the extent of _____ and _____ that his remuneration be fixed at _____
Dated _____

Judge.

FORM NO. 6
PROOF OF DEBTS
GENERAL FORM (SECTION 49)
(Title)

(a) Here insert number _____ In a matter of _____ No. given in the notice.

(b) Address in full _____ (a) of _____ 19 _____ .
I, _____ of (b) _____
make oath and say (or solemnly and sincerely affirm and declare) was

1. That the said _____ at the date of _____ were the petition. viz., the day of _____ 19 _____ is and still _____ justly are and truly indebted to me in the sum of Rs.

(c) State consideration and specify the vouchers (if any) in support of the claim. for (c) as shown by the account endorsed hereon (or the following account). viz., for which sum or any part thereof, I say that I have not, no hath or any person by order to my knowledge or belief for use had or received any manner of satisfaction of security whatsoever save and except the following

(d) Here enter details of securities bills or the like. _____
Admitted to vote for Rs. (_____) Judge or Official Receiver _____
(d)' Sworn at _____ this day _____ before me.

Deponent's Signature.
Commissioner.

FORM NO. 7

PROOF OF DEBT OF WORKMEN

(Title)

1. (a) of _____ (b) make oath and say (or solemnly and sincerely affirm and declare).—

(i) That (c) was _____
were

(a) Fill in full name, address and occupation of deponent.

(b) The above named debtor or the foremen of the above-named debtor on behalf of the workmen and others employed by the above-named-debtor

(c) "I" or "the said".

(d) "My employ" or "the employ of the above-named debtor".

(e) "Me" or "the above-named the debtor."

Admitted to vote for Rs. Judge or Official Receiver.

At the date of the adjudication, viz., the day of _____ 19____, and still is/are 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 receiving order as are set out against the irrelative 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.

Sworn at _____ this _____ day of _____ before me

Deponent's Signature

Commissioner.

FORM NO. 8

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

*(Section 38)**(Title)*

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

*Judge.***FORM No. 9**

FOR UNDER SECTION 38

LIST OF CREDITORS FOR USE AT MEETING HELD FOR CONSIDERATION OF COMPOSITION, OR SCHEME

(Title)

Meeting held at _____ this _____ day of _____ 19____ .			
Name of all creditors whose proofs have been admitted	Here state as to each creditor whether he voted and if so, whether personally or by pleader.	Amount of assests	Amount of admitted proof
		Total	_____

Required number of majority.

Required value _____ Rs.

FORM No. 10

FORM OF NOTICE UNDER SECTION 64

NOTICE TO PERSONS CLAIMING TO BE CREDITORS
OF INTENTION TO DECLARE FINAL DIVIDEND*(Title)*

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

Dated this day of 19 .

G.H.
Receiver

(Address)

FORM No. 11ORDER ANNULING ADJUDICATION UNDER
SECTION 35*(Title)*

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

Dated this day of 19 .

Judge.

FORM No. 12NOTICE TO CREDITORS OF APPLICATION FOR
DISCHARGE

(Section 41)

(Title)

Take notice that the above-named insolvent has applied to the Court for his discharge, and that the Court

has fixed the _____ day of _____ 19____ at
O'Clock for hearing the application.

Dated this _____ day of _____ 19____ .

Judge.

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

FORM No. 13

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

[Section 41(c)]
(Title)

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

It is ordered that the insolvent

(a) be discharged forthwith or

(b) be discharged on the _____ or

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

After setting aside out of the insolvent's earnings, after acquired property and income, the yearly sum of Rs_____ for the support of himself and his family the insolvent shall pay the surplus, if any (or such portion of such surplus as the Court may determine), of such earnings, after acquired property and income to the Court or Official Receiver (or Receiver) for distribution among the Creditors in the insolvency. An account shall on the first day of January in every year or within fourteen days

FORM NO. 15

REGISTER OF PERSONS ADJUDICATED INSOLVENT

Serial No.	Name of Insolvent	Date of adjudication	Date or period fixed for application for discharge	Name of Receiver	Security taken from the Receiver (if any)	Assets with estimated value	Liabilities with estimated value (secured or unsecured debts to be shown separately)	Remarks

FORM NO. 15 - Concl.

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

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

FORM NO. 16

PROPERTY REGISTER FOR INTERIM RECEIVER

Serial No.

Date of adjudication

Number of Case

(if any)

Name of Case

Date of interim appointment

Immovable Property		Movable Property other than Cash				Cash	Debts due to the Debtor			Documents and Title Deeds			Remarks
Particulars of property	How disposed of	Date of possession	Particulars	In what condition	Who disposed of	Date of receipt	Who disposed of	Date of Loan	Name of Debtor	Action taken, if any	Date of possession	Particulars	

Notes-1. One or more pages should be devoted to each estate according to the requirements of the case.

2. Entries to be made in the register in chronological order but an alphabetical index should be maintained in the beginning for facility of reference.