Allahabad High Court Rules
(Rules of Court, 1952)

As applicable in Uttarakhand
(As amended upto 01.05.2024)

Part I
General
Chapters I to VIII
CHAPTER I
Preliminary

1. Introductory.—These Rules are made by the High Court of Judicature at Nainital in exercise of the powers conferred by Article 225 of the constitution of India and all other powers enabling it in that behalf.

2. Short title and commencement.—These Rules may be cited as Rules of Court, 1952 and shall come into force on the fifteenth day of September, 1952. They shall apply to proceedings and matters in the High Court commenced on, or subsequent to, that date and, so far as may be, also to proceedings and matters pending on that date.

3. Interpretation.—(1) In these Rules unless the context otherwise requires-

"Bench" includes a Judge sitting alone;

"Certified" in relation to a copy means certified as provided in Section 76 of the Indian Evidence Act, 1872;

"Chief Justice" includes, in the absence, the Judge authorised to act on his behalf;

"Code" means the Code of Civil Procedure, 1908, and reference to an "Order" of the Code means reference to an Order of the first Schedule thereto;

"Constitution" means the Constitution of India;

"Court" and "this Court" means the High Court of Judicature at Allahabad as constituted by the U.P. High Courts (Amalgamation) Order, 1948;

"Editor" means a person appointed by the Chief Justice for scrutinizing

applications for translation and printing and for performing such other duties as are assigned to him under these Rules;

"Judge" means a Judge of the Court;

"Judgment Clerk" means an officer of the Court appointed to take down notes of judgments or orders pronounced by the Court and includes any person who may, for the time being, be authorised or directed by the court to take down a judgment or order pronounced by it;

"Notice" includes "summons";

"Oath Commissioner" means a person appointed by the High Court under Clause (b) of Section 139 of the Code of Civil Procedure, 1908 and[1][sub-section (1) of Section 297 of the Code of Criminal Procedure, 1973], before whom affidavits and affirmations may be sworn and affirmed;

"Paper-book" means a collection of papers in original or their copies, transliterations or translations, as the case may be, with fly-leaf, index, etc., made up in accordance with these Rules for the use of the Judge or Judges hearing the case;

"Prescribed" means prescribed by or under these Rules;

"Registered address" means the last address within the local units of the territorial jurisdiction of the Court filed by a party to a case in the Court or in the lower Courts at which service of notice, summons or other process may be made on him;

"Registrar" includes-

(i) the Joint Registrar at Lucknow, in matters, relating to the Lucknow Bench;

(ii) the Additional Registrar, the Joint Registrar or any other officer, with respect to such functions and duties of the Registrar as may have been assigned to the Additional Registrar and the Joint Registrar or such officer by the Chief Justice; and

(iii) in the absence of the Registrar, the Additional Registrar, the Joint Registrar or any other officer authorised to act on his behalf;

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[1] Substituted by Notification No. 680/VII-C2, w.e.f. 26.11.1980

"Sealed" means sealed with the seal of the Court;

"Special Appeal" means an appeal from the Judgment of one Judge;

"State" means the State of Uttarakhand ;

"Supreme Court Rules" means the Supreme Court Rules, 1966;

"Taxing Officer" means an officer appointed by the Chief Justice to perform the functions of the taxing officer under the Court Fees Act, 1870, and to tax costs;

"Vacation Judge" means the senior-most Judge on duty during the vacation at Nainital, as the case may be;

"Vakalatnama" means a document referred to in Rule 4 of Order III of the Code appointing an Advocate to act for any person in this Court.

(2) The General Clauses Act, 1897, shall apply for the interpretation of these Rules as it applies for the interpretation of an Act of Parliament and in matters not covered by that Act, by the U.P. General Clauses Act, 1904, as it applies for the interpretation of an Act of the State of Uttarakhand.

4. Reckoning of time.—Where any particular number of days is prescribed by these rules, the same shall be reckoned exclusively of the first day and inclusively of the last day, unless the last day shall happen to fall on a day on which the offices of the court are closed, in which case the time shall be reckoned exclusively of that day also and of any succeeding day or days on which the offices of the court continue to be closed.

5. Repeal.—The existing Rules of Court and the Rules of the Chief Court of Avadh at Lucknow and all other existing rules and orders dealing with matters covered by these Rules are hereby repealed :

Provided that nothing in this Rule shall affect anything done or to be done under such repealed rules or orders or under any decree or order made in accordance with them prior to the date of commencement of these Rules.

6. Issue of orders.—Every Judicial order, civil or criminal, issued from the office of the Court shall be in writing. No such order shall issue by telegram or telephone.

7. Date.—(i) Every application, petition objection or memorandum of appeal, presented in Court, shall be signed on every page by the applicant, the petitioner, the objector or the appellant, as the case may be, or by an

advocate appearing on his behalf and shall be dated.

(ii) Every affidavit, presented in court, shall be signed on every page by the deponent and shall be dated.

(iii) All the annexures filed by the petitioner, applicant or appellant, along with the petition, application, affidavit, supplementary affidavit or rejoinder affidavit, shall be consecutively numbered as 1, 2, 3 and so on, and all the annexures filed by the respondent or opposite party along with the counter-affidavits, supplementary counter-affidavits or application shall be so consecutively numbered in case of their being filed by first respondent or opposite party as 'A-1', 'A-2', 'A-3', etc., and in case of their being filed by second respondent or opposite party as 'B-1', 'B-2'. 'B-3' and so on.

CHAPTER II

Powers and Duties of the [1]Registrar General

1. Function, powers and duties of [1]Registrar General.—In addition to other functions, powers and duties of the Registrar under these Rules or other law, the following shall be his functions, powers and duties in relation to judicial proceedings, namely-

(i) to dispose of all matters relating to the service of notices and other processes including the signing and issuing of warrants and notices issued under the orders of the Court;

(ii) to allow the removal of formal defects in any memorandum of appeal or objection, petition or application;

(iii) to admit, issue necessary orders in, and dispose of uncontested applications made-

under Order XXII of the Code-

[2][(a) to bring or to dispense with in accordance with Order XXII, Rule 4 (4), C.P.C. the bringing on record the legal representatives of the deceased parties provided that no question of abatement or limitation arises; or]

(b) to record the assignment, creation or devolution of any interest during the pendency of a case,

or under Order XXXII of the Code-

for appointment or removal of a next friend or guardian *ad litem*, including fixation of fees and expenses of the next friend or guardian;

(iv) to deal with a motion for the admission of an application for leave to appeal to the Supreme Court in all cases in which an order for issue of notice may be made as a matter of course;

[3](iv-a) to receive Special Appeals [4][* * *];

(a) in the case of a Special Appeal in which a declaration has been granted under Rule 6 of Chapter VIII of these Rules; and

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[1] Substituted for word "Registrar" vide Noti. No. 43/UHC/Admn.-A-2003,dated: 15th April, 2003. Where "Registrar" occurs it is deemed to be read as "Registrar General".

[2] Substituted vide Noti. No. 680/VIII-C-2, dated:*26.11.1980 w.e.f. 11.04.1981*

[3] Substituted by Not. No. 345/VIII-C-150, dated November 8, 1983

[4] Deleted by Not. No. 507/VIII-C-17, dated October 19, 1973

(1) the appeal is presented within sixty days of judgment and is otherwise in order, to admit it and direct that notice be issued; and

(2) where such appeal is presented after the said period of sixty days and is accompanied by the papers mentioned in Rule 10 of Chapter IX and is otherwise in order, to adjourn it to Court;

(b) in the case of other Special Appeals, to lay such appeals before the Court for orders within one week of the date of presentation;

(v) to receive plaint, an application in the nature of caveat, issue notice or fix date for the filing of written statement in a proceeding under the original, ordinary or extraordinary jurisdiction of the Court], with liberty to adjourn any matter to the Judge in Chambers;

(vi) to deal with all matters relating to the payment of expenses and allowances to jurors and witnesses;

(vii) to direct that a security bond furnished under the provisions of Rule 10 of Order XLI of the Code be sent to the Court below for verification and report;

(viii) to sent decrees and orders passed by the Court in the exercise of its original, ordinary or extraordinary jurisdiction to other courts for execution;

(ix) under the Indian Succession Act, 1925-

(a) to receive an inventory of the property, credits and debits of the deceased to which the executor or administrator is entitled, or an account of the estate showing the assets and the application or disposal thereof;

(b) to require an executor or administrator to exhibit an inventory or account under Section 317;

(c) to grant extension of time for filing an inventory or account;

(d) to place on record an inventory or account; or

(e) to send a copy of an inventory or account filed before him to the Board of Revenue; or

(f) to issue necessary notices in connection with matters mentioned in Clauses (a) and (b) with liberty to adjourn any matter to the Bench concerned;

(x) to verify a compromise or to record the statement on oath of any

person, under the orders of the Court;

(xi) to extend the time for the submission of findings by the Court below in a case in which issues have been referred for trial to that Court under Rule 25 of Order XLI of the Code;

(xii) to dispense with copies of judgments where such copies have been filed in at least one connected appeal or revision;

(xiii) to deal with all matters connected with the progress of a case subject to such orders as the Court may pass from time to time including the receiving of affidavits and the granting of time for filing the same;

[1][(xiv) to dispense with the service upon any respondent or opposite party who did not appear in the Court below or who did not file a written statement in accordance with Order V, Rule 4-A, C.P.C.;]

[2][(xv) to direct that any matter be laid before the Court; or

(xvi) to do such other act as may be directed by the Court.]

2. Return of memorandum of Appeal for amendment.—The Registrar may return for amendment any memorandum of appeal under Rule 3 (1) of Order XLI of the Code. Where a memorandum of appeal has been so amended, he shall sign the amendment. The duties of the Registrar under this Rule shall be deemed to be of a quasi-judicial nature within the meaning of Clause (i) of sub-section (1) of Section 128 of the Code, and his orders shall be subject to revision by the Court on application by the aggrieved party made within a period of two months or such further time as the Court may allow from the date of the order complained of.

3. Extension of time.—Where the Registrar has refused to grant extension of time for any purpose under the foregoing Rules, the Court may, on a written application and for sufficient cause shown, grant the same.

Explanation.—Where a party does not take steps within the time allowed or where no one appears before the Registrar to ask for time to take necessary steps and the Registrar directs that the case be put up for orders before the Court, he shall be deemed to have refused to grant extension of time within the meaning of this Rule.

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[1] *Inserted vide noti. No. 680/VIII-C-2, dt. 26.11.80 w.e.f. 11.04.1981*

[2] *Renumbered clauses(xiv) and (xv) vide noti. No. 680/VIII-C-2, dt. 26.11.1980*

4. Additional powers.—(1) The Chief Justice may be order authorise the Registrar or any other officer-

(a) to receive a memorandum of appeal from the decree or order of a subordinate civil court and admit it and determine whether notice shall be issued at once to the other party or the appeal put up for hearing under Rule 11 of Order XLI of the Code or otherwise before the Court;
(b) to dispose of a contested application for impleading the legal representative of a deceased party;
(c) to receive and dispose of an application for the withdrawal of an appeal or for a consent decree or order;
(d) to receive and dispose of an application for the return of a document;
(e) to receive and dispose of an application under sub-rule (1) of Rule 5 or Rule 6, 8 or 10 of Order XLI of the Code; or
[1][(f) to receive any other application specified in the Order and to direct notice to issue on any such application.]

The Registrar or any other officer authorized under this Rule may adjourn any of the above matters to Court.

Where an officer other than the Registrar has been authorised under this Rule, the Registrar may exercise his function in his absence.

(2) In the absence of the Registrar where he has been authorised under this Rule or where an officer other than the Registrar has been so authorised in the absence of both, a motion relating to any of the above the Court for disposal.

(3) Any order passed by the Registrar or any other officer under Clause (b) or (e) of this Rule shall be subject to revision by the Court on application made by the aggrieved party within a period of two months or such further time as the Court may allow from the date of the order complained of.

5. Exercise of powers by Joint Registrar or other officer.—The Chief Justice may authorize the Additional Registrar or the Joint Registrar or any other officer to exercise such functions, powers and duties of the Registrar under these Rules as he may by order assign to him. In his absence the Registrar shall himself exercise such functions, powers and duties.

6. Exercise of Registrar's powers in his absence.—In the absence of the Registrar, the Additional Registrar or the Joint Registrar as the case may be, shall exercise the functions, powers and duties of the Registrar and in their absence such functions, powers and duties shall be exercised by the Deputy

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[1] *Inserted vide Noti. No. 99/VIII-C-19, dt. 16.04.1956 w.e.f. 02.06.1956*

Registrar with the exception of the powers, if any, conferred under Rule 4.

7. Court's jurisdiction unaffected.—The powers conferred upon, and the functions and duties assigned to, the Registrar, the Additional Registrar, the Joint Registrar or any other officer under these Rules, shall in no way affect the jurisdiction and powers of the court.

CHAPTER III

Executive and Administrative Business of the Court

1. [1][Administrative] Judges.—[2][The Chief Justice may assign each district to the administrative charge of a Hon'ble Judge nomination by him as the Administrative Judge for such district(s). The Administrative Judge will be in-charge of the district (s) assigned to him for such period as the Chief Justice may specify.]

[3][2. Administrative Committee.—

(a) There shall be as many Administrative Committees, as may be prescribed by the Chief Justice.

(b) The composition and the term of Administrative Committees, shall be as prescribed by the Chief Justice.

(c) In case of absence of any member of the Administrative Committee for whatever reasons, a new member may be appointed by the Chief Justice.

(d) These Committees shall discharge such function, as may be allocated by the Chief Justice.

(e) If a member of the Administrative Committee is temporarily absent, business assigned to the Committee may be transacted by the remaining members or another member may be appointed by the ChiefJustice.

(f) The Administrative Committees shall meet at least once in a

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[1] Substituted by Notification No. 89/VIII-C151, w.e.f. 14.02.2000

[2] As Amended by Not. No. 88/UHC/Admn. -A, 2005 dated: July.30,2005

[3] Re-inserted by Not. No. 25/UHC/Admin.A/2021, Dated: 9th March, 2021

month. However, it is open for the Chairperson of the Administrative Committee to call a meeting at any time.

(g) The Rule 4 of Chapter III, which provides for Allocation of administrative work, shall deem to be modified in accordance with the work allocated to the AdministrativeCommittees.**]**

3. [1][* * *]

[2] [4. Allocation of administrative work—The following shall be the allocation of executive and administrative work between the Chief Justice, Full Court and Administrative Judge."

(A) <u>Matters for the Chief Justice:</u>

(1) General supervision and control of Subordinate Courts and Vigilance cell subject to these Rules.

(2) Constitution Committees of Judges to examine any specified matter.

(3) Coordination of the work of different Committees.

(4) Assigning any work of the district as may be considered proper or expedient to any one or more Judges of the High Court.

(5) Mid-tern posting and transfer of the officers of Subordinate Judiciary.

(6) Inter district transfers of the employees of the Subordinate Courts.

(7) Review of the Judicial work of Subordinate Courts, Tribunals, District Consumer Forum and all other Special Courts and Control over their working including inspection thereof, which may also be any Judge of the High Court.

(8) Recording entire in the character rolls of the officers posted in the district Courts. Tribunals, District Consumer Forum and other Special Courts which may also be assigned to any Judge of the High Court

(9) Perusal of Returns, Calendars, Evaluation of Inspection Notes

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[1] Deleted by Not. No. C-1572 J.R. (S)/VIII-C-151, dated 01.08.1994

[2]As amended by Noti. No. 88/UHC/Admn.-A, 2005 dated 30.07.2005

made by the Presiding Officers in respect of their own offices, Audit Reports received from those Courts, Tribunals etc. and to make orders thereon.

(10) Deciding representations of the Judicial Officers of the Subordinate Courts made within one months from the date of communication to them of the Adverse Remarks, if any, by the District Judge concerned.

(11) Grrant of casual leave (including special casual leave) and permission to leave the Headquarter to the District and Session Judges, Presiding Officers of the Tribunals and Special Courts, by whatever name designated. It may also be assigned to any Judge of the High Court.

(12) Grant of earned leave to the Judicial Officers. It may also be assigned to any Judge of the High Court.

(13) Deciding appeal against the punishment imposed on the employees of the Subordinate Courts.

(14) Creation and abolition of posts.

(15) Consideration of the preliminary repot in disciplinary matters and directing holding of disciplinary inquiry against the officers subordinate to the High Court.

(16) Suspension of the officers subordinate to the High Court pending disciplinary proceedings.

(17) Award of censure entries to the officers subordinate to the High Court.

(18) Provisional promotion of the officers to the cadre of Civil Judge (Senior Division) and the Chief Judicial Magistrate.

(19) Direction of issuance of the Circular Letters and General Letters for the guidance of the Subordinate Courts.

(20) To decide matters in which opinion of the High Court in sought by the Union or State Government.

(21) Permission to cross efficiency bar to the officers subordinate to the High Court.

(22) Any other matter not covered under the power of the Full Court.

(23) Deputation of Officers of Subordinate Judiciary and their withdrawal.

(B)Matters for the Full Court:

(1) Deputation of officers of Subordinate Judiciary and their withdrawal.

(2) Annual posting and transfer of the officer of Subordinate Judiciary.

(3) Confirmation and promotion to selection grade, Suppertime Scale and reversion of the Officer of the Subordinate Judiciary.

(4) Investiture of powers of officers of the Subordinate Judiciary.

(5) Finalization of list of holidays, working hours, vacations and calendars of the High Court.

(6) Fixing working hours, vacation of subordinate Courts, Calendar and list of holidays of Subordinate Courts.

(7) Direct recruitment to Higher Judicial Service and recommendations to the Government regarding promotion to Higher Judicial Service.

(8) Grant to suppertime scale to the officers of Higher Judicial Service, reduction in rank, premature retirement.

(9) Termination of services of probationers and temporary officers of subordinate Judiciary.

(10) Consideration of final reports of disciplinary inquiries in respect of officers of the Subordinate Judiciary and taking decisions as to punishment.

(11) Proposal as to legislation and changes in law.

(12) Amendment of Rules of Court.

(13) Amendment of Rules applicable to the Subordinate Courts.

(14) General policy matters.

(15) Consideration general annual report of Administration of Justice to be sent to the Government.

(16) Consideration of any representation against the adverse remarks awarded by the Chief Justice or by any other Judge of the High Court to an officer of Subordinate Judiciary.

(17) Any matter, which the Chief Justice or any Judge of the High Court considers, fit to be placed before the Full Court.

(18) Any other matter, which is not covered under any of the above

heads.

(C) Matters within the powers of Administrative Judge-

(1) Grant of casual leave (including special casual leave) and Permission to leave headquarters to the District Judges and Presiding Officers of Tribunals.

(2) Grant of earned leave to the Officers posted in the Zone under the charge of Administrative Judge.

(3) Perusal of returns, calendars, evaluation of inspection reports made by the presiding Officers in respect of their own offices and audit reports.

(4) Disposal of department appeals against orders of punishment imposed on and representations etc. of the employees of the subordinate courts.

(5) Annual confidential remarks to the Judicial Officers [1][* * *]

(6) Inspection of the courts and offices of the District with the Zone of the Administrative Judges.

[2]**[5. Conduct and business by the Administrative Committee and the Full Court**. –[3][The business of Full Court may be transacted either at a meeting or by circulation provided that if any Judge in the case of matters relating to the Full Court desires that the matter may be placed in a meeting, it shall be so placed.

[4]**[6. Procedure for Circulation]**. –[5][So far as convenient, papers for circulation shall be sent by the Registrar to the Judges in their order or seniority, commencing with the Junior Judge. The Registrar shall, so far as practicable, obtain from each Judge such papers within three days from the date when the same are sent to him. The Registrar shall endorse on the papers the date when they are sent to and the date when are received back

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[1]As amended by Noti. No. 235/UHC/Admin. A/2013 dated September 03, 2014

[2] *Rules 5 substituted for the existing clause 11 of Sec. H vide Noti. No. 19/VIII-C-151, dt.09.08.1977, w.e.f. 20.08.77*

[3] Substituted by Notification No. 162./ UHC -2001 dated. October, 6, 2001.

[4] *Existing Clause 12 renumbered as Rule 6 vide Noti. No. 19/VIII-C-151 dt. 09.08.1977, w.e.f.20.08.1977*

[5] Substituted by Notification No. 162./ UHC -2001 dated October, 6, 2001.

from each Judge. It shall not be necessary to send papers to any Judge who is not for the time being at the station.

[1][**7. Opinion of Judge.—**When a Judge does not send his opinion in writing within a week from the date of the receipt of papers sent to him for opinion, he shall be deemed to have declined to express any opinion in the matters.]

[2][**8. Papers to be submitted to Chief Justice after circulation.—**After any papers have been circulated for opinion, they shall be submitted again to the Chief Justice and he may either direct that the opinion of the majority of the Judges including his own be given effect to or lay the matter for consideration before a Judges meeting."

[3][**9. Full Court Meeting. -**The Chief Justice may call a Full Court meeting whenever there is business to be disposed of.

Provided:—

(1) that a Full Court meeting shall be called once every three months excluding winter vacation, and

(2) that if a request is made to the Chief Justice by at least two Judges to call such a meeting, it shall be called within a week of the request."

[4][**10. Meeting of the Administrative Committee.** [* * *]

11. Notice of meeting to Judges. –[5][(a) The Registrar shall give notice to the Judges concerned, except in a case of emergency, at least three days notice of the Full Court meeting of the date, place and hour when such meeting would be held and of the business to be brought before such meeting. In a case of emergency, the Registrar shall give the best notice he can.

(b) The Agenda of the Full Court meeting shall ordinarily be circulated to all the Judges before the meeting and they may, if necessary, express their views in writing on any of the matter for consideration of the Full Court, as the case may be.

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[1] Substituted by Notification No 19/VIII-C-151, dt. 09.08.1977, w.e.f. 20.08.1977

[2]Substituted by Notification No. 162./ UHC -2001 dated 6.10.2001.

[3] Substituted by Notification No. 162./ UHC -2001 dated 6.10.2001.

[4] Deleted by Notification No. 162./ UHC -2001 dated 6.10.2001.

[5] Substituted by Notification No. 162./ UHC -2001 dated 6.10.2001.

(c) As soon as the business of the Full Court is over the minutes of the Full Court will be circulated to all the Judges."

12. Quorum. –The quorum necessary for the transaction of the business shall be [1]**[33 percent of the strength of the Hon'ble Judges]**in the cast of the meeting of the Full Court."

13. Decision in case of a difference of opinion.—In case of a difference of opinion at [Full Court] meeting or a meeting of the Administrative Committee the decision shall be in accordance with the opinion of the majority of the Judges present, and in case the Judges present be equally divided, the Chief Justice or in his absence the Senior Judge present shall have a casting vote.

14. Proceedings to be recorded.—The Registrar shall attend all [Full Court] meetings and meetings of the Administrative Committee and shall record in the respective minute books the proceedings at such meetings. The record of the proceedings shall be preceded by a statement signed by the Registrar showing which of the Judges attended the meeting and the business for which the meeting was called.

15. Custody of minute books.—The minute books shall be kept in the safe of the court and shall not be removed from the Court premises except by the Registrar with the sanction of the Chief Justice for the purpose mentioned in the next preceding Rule.

16. Effect of any irregularity in or omission to follow the procedure laid down in this chapter.—No irregularity in, or omission to follow, the procedure laid down in this Chapter shall affect the validity of any order passed or anything done under these Rules.

17. Disposal of executive and administrative business of the court during vacation.—During Court's vacation urgent and routine matters falling in the jurisdiction of the Chief Justice or the Administrative Judges shall be laid before the Senior Vacation Judge on duty and present in Allahabad for orders :

Provided that the urgent matters shall be laid before such Senior Vacation Judge only if the Chief Justice or the Inspecting Judge is not easily available and that the matters requiring decision of policy shall not be laid before him for orders.

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[1]Substituted by Substituted No. 108/UHC/Admn. -A, 2004, dated: July 14,2004.

Explanation.—For purposes of this rule urgent routine matters will mean - (1) Assembly and Parliament Questions, (2) enquiries made by High Court of the other States, (3) reply proposed to be sent to the State and Central Government, (4) countersigning bills of the court's staff, (5) sanctioning advances to the staff and officers of the court and Judicial officers under the administrative control of the court, earned and medical leave to the officers of the courts and the Judicial officers and funds to the subordinate courts under the head 'G-Works'; and (6) proposals for arrangement during vacation submitted by the District Judges.

CHAPTER IV

Affidavits and Oath Commissioners

1. Appointment of Oath Commissioners.—The Chief Justice may from time to time appoint such persons as he may consider fit to be Oath Commissioners specifying the period or periods for which they have been so appointed.

2. Fees.—Such fees shall be paid for the verification of affidavits before Oath Commissioners as may be prescribed from time to time by order of the Chief Justice.

3. Register.—Oath Commissioners shall maintain a register or registers which shall contain the following particulars with respect to each affidavit sworn before them, namely-

(a) serial number;

(b) date and time of making affidavit;

(c) particulars of the case to which affidavit relates;

(d) full particulars of person making the affidavit;

(e) particular of the person identifying him;

(f) fee paid;

(g) name of Oath Commissioner before whom affidavit is sworn; and

(h) signature of Oath Commissioner and remarks, if any The Chief Justice may from time to time fix the number of registers to be maintained and add to or alter the particulars required to be entered therein.

The registers shall be open to inspection by the Registrar.

4. Affidavit to bear serial number, etc.—Each affidavit shall have recorded on it the number and the year of the register in which it is entered and the serial number and the date of the entry. [1][It shall also have the coupon, as supplied by the Court, affixed to it by the Oath Commissioner]:

Provided that the affidavit verified by the Oath Commissioners of other

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[1] Added by Noti. No. 109/VIII-C-177, dt. February, 1974 w.e.f. 20th April, 1974

State [1][by an Officer of Jail in the State of Uttarakhand], [2][by the Superintendent-cum-Accountant of the Office of Official Liquidator High Court, Allahabad] [3][and by the Police Sub-Inspector (M) in the office of the Inspector General of police at Lucknow] on whom powers of Oath Commissioner have been conferred can be presented before the Court without such coupons.]

5. Duty of Oath Commissioner.—An Oath Commissioner shall not allow an affidavit to be sworn before him unless it complies with the provisions of this Chapter.

6. Distribution of fees.—The fees paid shall be distributed among Oath Commissioners in such manner as the Chief Justice may from time to time direct.

7. Removal of Oath Commissioner.—The Chief Justice may in his discretion remove an Oath Commissioner from his office.

8. Affidavits filed or presented in Court.—The provisions of Rules 5, 6 and 11 of Chapter IX shall, so far as may be, apply to an affidavit filed or presented in Court. It shall be in the language of the Court and shall bear the general hearing:

"In the High Court of Judicature at Allahabad."

The affidavit and every exhibit annexed thereto shall be marked with the particulars of the case or proceeding in which it is sworn.

The affidavit shall contain no statement which is in the nature of an expression of opinion or argument.

9. Full particulars of persons and places to be given.—An affidavit shall fully describe the person swearing it with such particulars as will ensure his clear identification such as his full name, his age, the name of his father, his religious persuasion, his rank or degree in life, his profession, calling, occupation or trade and his true place of residence. Any person or place referred to in an affidavit shall be fully described in such manner as to enable his or its identity to be clearly fixed.

10. Persons who may make affidavits.—Except as otherwise pro-

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[1] *Ins. by Noti. No. 5/VIII-C-177, dt. November 2, 1976 w.e.f. December 4, 1977*

[2] *Ins. by Noti. No. 119/VIII-C-177, dt. 22.02.1980, w.e.f. September 9, 1980*

[3] *Ins. by Noti. No. 322/VIII-C-2, dt. 02.05.1984, w.e.f. October 27, 1984*

vided by law or by these Rules or by order of the Court, an affidavit may be sworn by any person having knowledge of the facts deposed to therein.

Two or more persons may join in an affidavit, each deposing separately to such facts as are within his knowledge.

11. Form of affidavit.—When the deponent speaks to any facts within his own knowledge, he must do so directly and positively, using the word "I affirm" or "I make oath and say" or words to that effect.

12. Facts to be within the deponent's knowledge or source to be stated.—Except on interlocutory applications, an affidavit shall be confined to such fact as the deponent is able of his own knowledge to prove.

On an interlocutory application when a particular fact is not within the deponent's own knowledge, but is based on his belief or information received from others which he believes to be true, the deponent shall use the expression "I am informed and verily believe such information to be true, "or words to that effect, and shall sufficiently describe for the purpose of identification, the person or persons from whom his information was received.

When any fact is stated on the basis of information derived from a document, full particulars of that document shall be stated and the deponent shall verify that he believes such information to be true.

13. Identification of deponent.—Every person swearing an affidavit shall, if not personally known to the person before whom the affidavit is sworn, be identified before that person by someone known to him; and in such case the person before whom the affidavit is made shall state at the foot of the affidavit, the name, address and description of the person by whom such identification was made.

Such identification may be made by a person -

(a) personally acquainted with the person to be identified, or

(b) who is reasonably satisfied as to his identity :

[1][Provided that in the latter case the person so identifying shall sign at the foot of the affidavit a declaration in the following form, after satisfying himself from any of the documents furnished by the person so identi-

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[1] Substituted by Uttarakhand High Court Not. No. 77/UHC/Admin.A/2023, dated March 23, 2023

fied from which identity can be duly established, namely Passport, Driving Licence, Voter Identity Card, PAN Card and Photo Identity Card issued by the Government:

Form of Declaration:

I (name, description and address) identify the deponent Shri /Smt. / Km. …… from his/her (name of the document of identity).]

14. Affidavit by Pardanashin woman.—No affidavit purporting to have been sworn by a woman who did not appear unveiled in the presence of the person before whom the affidavit was made, shall be used unless she was identified in the manner specified in Rule 13, and the affidavit is accompanied by a separate affidavit by the person identifying her made at the time of identification setting forth the circumstances in which she was personally known to him or he was satisfied that she was such person as she alleged herself to be in her affidavit.

15. Contents to be explained to deponent.—The person before whom an affidavit is sworn shall ask the deponent if he has read the affidavit and understands the contents thereof. If the deponent state that he has not read it or appears not to understand the contents or does not know the language thereof he shall read and explain it or cause another person to read and explain it to such person in his presence. Until he is satisfied that the deponent fully understands its contents he shall not allow the affidavit to be sworn.

16. Impounding of affidavit.—When it appears to the Oath Commissioner that the deponent cannot be made or will not understand the contents of the affidavit, he shall impound it and forward it to the Registrar for such action as he may consider necessary.

When an affidavit is impounded under this Rule, the person impounding the same shall certify thereon the date on which and the circumstances in which it was impounding.

17. Oath or affirmation by deponent.—The person administering an oath or affirmation to the person making an affidavit, shall follow the provisions of the Indian Oaths Act, 1873.

The following forms are prescribed, namely-

Oath

I swear that this my declaration is true; that it conceals nothing; and that no part of it is false. So help me God.

Affirmation

I solemnly affirm that this my declaration is true; that it conceals nothing; and that no part of it is false.

18. Correction in affidavit.—All interlineations, alterations or erasures in an affidavit shall be initialled by the person swearing it and the person before whom it is sworn. Such interlineations, alterations, or erasures shall be made in such manner as not to obliterate or render it impossible or difficult to read the original matter. In case such matter has been obliterated so as to make it impossible or difficult to read it, it shall be re-written on the margin and initialled by the person before whom the affidavit is sworn.

No interlineation, alteration or erasure shall be made in an affidavit after it has been sworn.

19. Certificate of verification.—The person before whom an affidavit is sworn shall certify at the foot of the affidavit the fact of the swearing of the affidavit before him, the manner in which he has complied with Rule 15 and the date and hour of the swearing of the affidavit and shall mark, initial and date any exhibits referred to therein.

20. Affidavit containing numerous correction may not be accepted.—The Court or the Registrar may refuse to receive an affidavit in which interlineations, alterations or erasures appear to be so numerous as to make it expedient that the affidavit should be re-written.

21. Interpretation.—In this Chapter 'affidavit' includes a petition or other document required to be sworn, and 'sworn' shall include 'affirmed'.

[1][22. Notwithstanding anything contained in the foregoing rules of Chapter IV of the High Court Rules, the affidavits for the purpose of any cause, appeal or matter before the High Court may be sworn before a Notary.]

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[1] added by Notification No. 03/UHC-2002, dated 21st March, 2002

CHAPTER V

Of Judges sitting alone or in Division Courts

1. Constitution of Benches.—Judges shall sit alone or in such Division Courts as may be constituted from time to time and do such work as may be allotted to them by order of the Chief Justice or in accordance with his directions.

2. Jurisdiction of a single Judge.—Except as provided by these Rules or other law, the following cases shall be heard and disposed of by a Judge sitting alone, namely-

(i) a motion for the admission of a memorandum of appeal or cross objection or application or for *ex parte* interim order on an application;

[1][(ii) (a) a civil [2][* * *] Second Appeal from a decree,including an appeal arising out of a case instituted in a revenue court, in which the value of appeal for the purpose of jurisdiction does not exceed [3][one lakh] rupees;]

[4][(aa) A Civil First Appeal instituted before [5][or after] the commencement of the [6][U.P. Civil Laws Amendment Act of 1991 (U.P. Act No. 17 of 1991)] from a decree including an appeal arising out of a case instituted in a revenue court in which the value of appeal for the purpose of jurisdiction does not exceed [7][five lakh] rupees;]

(b) an appeal under Section 28 of the Hindu Marriage Act, 1955;

(c) any other civil appeal in which the value of the appeal does not exceed [8][two lakh] rupees :

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[1] Subs. By Noti. No. 37/VIII-C-150. Dated 18.02.1958.

[2] Deleted by Not. No. 360/IV-G-24, dated August 22, 1969

[3] Subs. By C.S. NO. 211, dated 31.05.1991

[4] Added by Noti. No. 360/iv-G-24, dated 22.08.1979

[5] Ins. By Noti. No. 322/VIII-C-2, dated 02.05.1984

[6] Add. By Noti. No. 552, dated 22.11.1995

[7] Sub. By noti. No. 552, dated. 22.11.1995

[8] Subs. By C.S. No. 221, dated 31.05.1991 w.e.f. 24.08.1991

[1][Provided that where an *ad valorem* court-fee has been paid such value shall be deemed to be the amount on which such court-fee has been paid;]

(iii) a civil revision;

(iv) an application for the withdrawal of an appeal or application, or for a consent decree or order, which is uncontested or which is made in a case which can be heard under these Rules by a Judge sitting alone;

(v) any other application which is not-

(a) an application [2][* * *] under Section 5 of the Limitation Act, 1963 in a case which cannot be heard by a Judge sitting alone;

(b) [3][* * *]

(c) an application [4][other than an application for interim order] to which Chapter XXII, Part IV applies;

(d) an application [5] [other than an application for interim order] which by these Rules or other law is required to be heard by a Bench of two or more Judges;

(e) an application [6] [other than an application for interim order] under Chapter IX, Rule 10; or

(f) [7][* * *]

(vi) a suit or a proceeding in the nature of a suit coming before the Court in the exercise of its ordinary or extraordinary original civil testamentary or matrimonial jurisdiction including a proceeding under the Indian Trusts Acts, 1882 [8][the Companies Act, 1956] or the Indian Patents and Designs Act, 1911;

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[1] Added by Noti. No. 138/VIII-C-150, dated 1.6.1959

[2] Deleted by Not. No. 20/VIII-C-150 dated 18.08.1977

[3] Deleted by Not. No. 261/VIII-C-17, dated 29.04.1975

[4] Sub. By Noti. No. 10/VIII-C-17, dated 06.05.1978

[5] Ins. By Noti. No. 20/VIII-C-150, dated 18.08.1997

[6] Subs. By Noti. No. 10/VIII-C-150, dated 06.05.1978

[7] Deleted by No. No. 20/VIII-C-150, dated 18.08.1977

[8] Now refer Companies Act, 2013

(vii) a criminal appeal, application or reference except-

(a) an appeal or reference in a case in which a sentence of death or imprisonment for life has been passed;

[1][(b) an appeal under section 378 of the code of Criminal procedure, 1973 from an order of acquittal;[2][in respect of an offence for which the maximum punishment is either life imprisonment or death]]

(c) [3][* * *]

(d) a case in which notice has been issued under [Section 401 of the Code of Criminal Procedure, 1973] to an accused person to appear and show cause why his sentence should not be enhanced;

(e) [4][* * *]

(f) an application to which Chapter XXI, Part IV applies;

(viii) a case coming before the Court in the exercise of its ordinary or extraordinary original criminal jurisdiction;

(ix) an appeal or revision from an order passed [5][under Sections 340, 341 or 343 of the Code of Criminal Procedure, 1973] :

Provided that.—

(a) the Chief Justice may direct that any case or class of cases which may be heard by a Judge sitting alone shall be heard by a Bench of two or more Judges [6][or that any case or class of cases which may be heard by a Bench of two or more Judges, by a Judge sitting alone;]

(b) a Judge may, if he thinks fit, refer a case which may be heard by a

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[1] Substituted by Noti. No. 680/VIII-C-1, dt. 26.11.1980

[2] Added by Noti. No. 552, dt. 22.11.1995

[3] Deleted by No. No. 680/VIII-C-1, dated 26.11.1980

[4] Deleted by No. No. 680/VIII-C-1, dated 26.11.1980

[5] Substituted by Noti. No. 680/VIII-C-1 dt. 26.11.1980

[6] Added by Noti. No. 226/VIII-C-1 dated.03.05.1964

Judge sitting alone or any question of law arising therein for decision to a larger Bench; and

(c) a Judge before whom any proceeding under the Indian Trusts Act, 1882, [the Companies Act, 1956] or the Patents and Designs Act, 1911, is pending may with the sanction of the Chief Justice, obtain the assistance of one or more other Judges for the hearing and determination of such proceeding or of any question or questions arising therein.

[1][**3. Case to be decided by three Judges.—**A reference under Section 57 or 60 of the Indian Stamp Act,1899 shall be heard and disposed of by a Bench of not less than three Judges.]

4. Proceedings under the Legal Practitioners Act, 1879.—(1) A proceeding under Legal Practitioners Act, 1879, against a pleader or Mukhtar with respect to any misconduct or his conviction for any criminal offence shall be heard and disposed of ;by a Bench of not less than two Judges.

(2) An enquiry under Section 36 of the Legal Practitioners Act, 1879, shall be made by Bench of not less than two Judges.

5. Cases withdrawn under Art. 228 of the Constitution.—A case withdrawn from a court subordinate to the Court under Art. 228 of the Constitution shall be heard by a Bench of two or more Judges specially appointed by the Chief Justice.

6. Reference to a larger Bench.—The Chief Justice may constitute a Bench of two or more Judges to decide a case or any question of law formulated by a Bench hearing a case. In the latter event the decision of such Bench on the question so formulated shall be returned to the Bench hearing the case and that Bench shall follow that decision on such question and dispose of the case after deciding the remaining questions, if any, arising therein.

7. Contempt in *facie curiae*.—Where a contempt as contemplated by [2][Section 345 of the Code of Criminal Procedure, 1973] is committed before the Court, the Judge or Judges before whom such contempt is committed may take cognizance of the offence and deal with the offender

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[1] Sub. Vide Noti. No. 680/VIII-C-1, dt. 26.11.1980

[2] Sub. By Noti. No. 680/VIII-C-1, dt. 26.11.1980

under the provisions of that Code and subsequent sections of that Code.

8. Case to be heard by two Judges.—Save as otherwise provided by these Rules or other law or by any general or special order of the Chief Justice, every other case [1][including writ petitions in which Special Appeals are not barred] shall be heard and disposed of by a Bench of two Judges.

9. Senior Judge.—Subject to any general or special order of the Chief Justice, Senior Judges at Allahabad and Lucknow shall, in the absence of the Chief Justice, exercise jurisdiction at their respective places in connection with the arrangement of Benches, listing of cases and other like matters.

10. Judge on duty during vacation.—[2][(1) Criminal work shall continue to be dealt with during the vacation by such Judges as may be appointed for the purpose by the Chief Justice. They may also exercise original, appellate, revisional, civil or writ jurisdiction vested in the Court in fresh and pending matters which in their opinion require immediate attention.

Such jurisdiction may be exercised even in cases which are under the Rules cognizable by two or more Judges, unless the case is required by any other law to be heard by more than one Judge.

Provided that, whenever, it appears that any matter should be heard by a Bench of more than one Judge during the vacation, such Bench may be constituted by the ChiefJustice]

[(2) Subject to any general or special order of the Chief Justice, the senior most vacation Judge at Allahabad or Lucknow, as the case may be, shall in the absence of the Chief Justice, exercise jurisdiction at Allahabad or Lucknow,as the case may be, in connection with the arrangement of Benches, listing of cases and other like matters.]

11. [[3]Hearing in Chambers [4][an urgent application].—(1) A proceeding under the Indian Trusts Act, 1882, [5][or the Companies Act,

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[1] Inserted by Noti. No. 653/VIII-C-150, dt. 06.05.1978

[2] Amended by Not. No. 285/UHC/Admin.A/2020 Dt. 29.12.2020

[3] Amended by Noti. No. /UHC/Admin.A/2020, dt. 29.12.2020

[4] Added vode noti. No.39, dt. 19.02.1965 w.e.f.11.04.1981

[5] Substituted vide Noti. No. 680/VIII-C-19,dt. 26.11.1980 w.e.f. 11.04.1981

1956] or the Patents and Designs Act, 1911, or any question arising or application made therein, may, in the discretion of the Judge or Judges hearing the same, be heard in Chambers. Every other application or *ex parte* motion shall be made in court unless the Judge before whom it is made allows it to be made in Chambers.

[1][(2) On a day when the Court is not sitting urgent applications may be presented before the Judge or Judges constituting the Bench which received similar applications on the immediately preceding working day, with his or their leave in chambers or at his or their residence :

Provided that if the Judge or Judges constituting the Bench are not available the Chief Justice may constitute another Bench.]

(3) During the vacation an urgent application may be made to the vacation Judge with his leave in Chambers or at his residence.

12. Application for review.—An application for the review of a Judgement shall be presented to the Registrar, who shall endorse thereon the date when it is presented and lay the same as early as possible before the Judge or Judges by whom such judgment was delivered along with an office report as to limitation and sufficiency of court-fees. If such Judge or Judges or any one or more of such Judges be no longer attached to the court, the application shall laid before the Chief Justice who shall having regard to the provisions of Rule 5 of Order XLVII of the Code, nominate a Bench for the hearing of such applications :

[2][Provided that an application for the review of a judgment of one Judge who is precluded by absence or other cause for a period of six months next after the presentation of the application from considering the decree or order to which the application refers, shall be heard or disposed of by a single Judge, and that an application for the review of a judgment of two or more Judges, any one or more of whom is or are precluded by absence or other cause for a period of six months next after the presentation of the application from considering the decree or order to which the application refers, shall be heard or disposed of by a Bench consisting of the same or a greater number of Judges.]

[3]***[Explanation.—***For the purposes of this rule the expression 'no longer

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[1] Sub. By Noti. No. 973/VIII-C-19,dt.05.12.1974, w.e.f. 11.01.1975

[2] Sub. Vide noti. No. 436/VIII-C-2, dt 27.07.1983, w.e.f.13.03.1983

[3] Added vide noti. No. 226/VIII-C-90, dt.13.05.1964 w.e.f.05.12.1964

attached to the Court' shall be deemed to include absence from the permanent place of sitting on account of the directions given under Rule 17 of this Chapter, illness or any other cause.]

13. Subsequent application on the same subject to be heard by the same Bench.—No application to the same effect or with the same object as a previous application upon which a Bench has passed any order other than an order of reference to another Judge or Judges, shall, except by way of appeal, ordinarily be heard by any other Bench.

The application when presented by or on behalf of the person by whom or on whose behalf such previous application was made shall give the necessary particulars of such previous application, the nature and the date of the order passed thereon and the name or names of the Judge or Judges by whom such order was passed.

[1][Provided that an application for restoration of a case dismissed in default, reed not be listed before the same bench for disposal.]

[2][14. Tied up cases. – [* * *]

15. Application in a tied up case.—Any application in case which may under the next preceding Rule be heard by a particular Bench shall ordinarily be heard by such Bench.

16. Application in a case entered in the cause list.—An application in a case appearing before a Bench in the Cause List shall ordinarily be presented before such Bench.

17. Places of sitting of Judges.—The Chief Justice shall determine the permanent place of sitting of a Judge and may from time to time give directions that a Judge at Allahabad may for such period as he may specify sit at Lucknow and *vice versa*.

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[1] Added by *Notification No. 254/UHC/Admn.—A-2003 dated 30th October, 2003.*

[2] Deleted by noti. No. 158/UHC/Admin.-A-2004 dated. 27.09.2004

CHAPTER VI

Hearing and Adjournment of Cases

1. Order sheet.—(1) As soon as an appeal, reference or application which may be registered and numbered as a separate case under sub-rule (1) of Rule 1 of Chapter IX is received, an order-sheet in the prescribed form shall be attached thereto.

(2) where an appeal or application is presented in court or before the Registrar, the first entry on the order-sheet shall be made by the reader concerned. In the case of reference it shall be made by the clerk concerned.

(3) The entry shall indicate the date on which the appeal or application was presented or the reference received in the office. It shall also record the order, if any, passed on that date.

2. Order-sheet to be in chronological order.—The order-sheet is intended to be a complete record of the history of the case in chronological order and all orders passed and all office reports in the case, including reports as to nonpayment of process-fees, service of notice, etc. shall be entered thereon.

3. Order on interlocutory application.—Where the order-sheet is not with the Reader when an order in made by the court or the Registrar, he shall immediately send for it and make the necessary entry thereon.

4. Maintenance of order-sheet.—(1) No entry shall be made on a new sheet until all available space on the previous sheet has been utilized. The order-sheet shall be continuous one consisting of as many sheets as may be necessary.

(2) The order-sheet shall bear one general number, different sheets thereof being given separate sub-numbers.

(3) When an order is recorded by the Court or the Registrar on the order-sheet, a note thereof shall be made by the Readers on the paper to which the order relates.

When an order passed by the Court or the Registrar is recorded elsewhere, an entry thereof shall be made by the Reader on the order-sheet.

(4) All orders recorded by the Court or the Registrar on the order-sheet and all entries on the order-sheet of orders recorded elsewhere, shall be serially numbered.

(5) All office reports recorded on the order-sheet shall be signed and dated by the clerk concerned, the date being entered immediately below the signature.

(6) The order-sheet shall be kept in a separate cover and it shall be the duty of the Munsarim concerned to see that it is properly maintained and preserved in good condition.

5. List of ready cases.—Subject to the directions of the Chief Justice, the Registrar shall cause to be published from time to time a list of all cases ready and likely to be put up for hearing.

6. Cause List.—The Registrar shall, subject to such directions as the Chief Justice may give from time to time, cause to be prepared a Cause List for each day on which the Court sits containing lists of cases which may be heard by the different Benches of the Court. The List shall also state the hour at which and the room in which each Bench shall sit.

7. Part-heard cases.—A case which remains part-heard at the end of the day shall, unless otherwise ordered by the Judge or Judges concerned, be taken up first after miscellaneous cases, if any, in the Cause List for the day on which such Judge or Judges next sit. Every part-heard case entered in the list may, unless the Bench orders otherwise, be proceeded with whether any Advocate appearing in the case is present or not :

Provided that if any part-heard case cannot be heard for more than two months on account of the absence of any Judge or Judges constituting the Bench, the Chief Justice may order such part-heard case to be laid before any other Judge or Judges to be heard afresh.

8. Case in which a date is fixed.—A case in which a date has been fixed for hearing shall, so far as possible, be placed in the Cause List immediately after miscellaneous and part-heard case.

9. Case may be disposed of on date fixed if notices served.—If on the day fixed for the hearing of any case or other matter, it appears that the requisite notices have been duly served such case or other matter may be disposed of by the Court on that day. But if it is not disposed of on that day no further notice of the date of hearing other than an entry in the Cause List of the day on which it is to be heard, shall be necessary.

10. Cases to be called on in their order in Cause List.—Cases in the Cause List of a Bench shall, unless otherwise directed by the Bench, be called on and disposed of in the order in which they stand in the List.

11. Adjournment on party's application.—In civil cases, except where an adjournment is made with the consent of the parties or where from insufficiency or want of notice a party has not been able to prepare itself for the hearing of the case, the Court while granting an adjournment may direct the party applying for such adjournment to pay to the opponent or his Advocate such costs as it may consider reasonable.

12. Court may order a case to stand out of its place or be adjourned on application.—On an application made to it the Bench may for sufficient cause shown order any case listed before it for hearing to stand out of its place in the Cause List or to be adjourned for such period as may be considered just.

Where an adjournment for not more than three days is sought the application may be made orally. In considering whether there is sufficient cause any objection on behalf of the other party shall be taken into account.

A motion under this Rule may be made as soon as the Bench begins its work for the day and shall not ordinarily be entertained if made at any other time :

Provided that no adjournment shall be granted under this Rule unless there is sufficient work for the day.

13. No party has right to have a case put out of its place in Cause List owing to Advocate's engagement elsewhere.—No party shall have the right to have a case put out of its place in the Cause List on the ground that his Advocate or his brief-holder is engaged before another Bench.

The Bench may, however, order any case to stand out of its place in the list if such Advocate or brief-holder is alone in the case and is actually arguing a case before another Bench or is alone in a case that is actually being heard by another Bench and has, before the case is called on, given information in writing to the Bench Reader that he is so engaged before another Bench. A case will, however, not ordinarily be so put out of its place unless there is another case in the List in which the parties or their Advocates are ready and present in the court-room so that the case may be proceeded with at once.

It shall be the duty of the Advocate to inform the Bench Reader as soon as the case, in which he is engaged in the manner indicated above in another Bench, is over.

A case shall not ordinarily be put out of its place in the Cause List un-

der this Rule more than once.

14. Application that a case be not listed on any particular day or days.—(1) The Chief Justice may on the application of any party order that a case shall not be placed in the Cause List on any particular day or days.

(2) Such application shall be duly stamped and signed by the applicant or his advocate and presented before the Registrar. The application shall be laid before the Chief Justice for orders along with a note by the Registrar showing the extent to which,. if at all, the work of the Court will be interfered with if the application were to be granted.

15. Advocate's application for postponement of his cases.—(1) The Chief Justice may on the application of an Advocate postpone his cases for such time as he may deem proper, if he is satisfied that such postponement is necessary on account of a marriage, death or illness, or any other unavoidable or urgent reason.

(2) An application under this Rule shall be accompanied by a list of cases desired to be postponed specifying the occasion or occasions, if any, when any such case was previously postponed under this Rule. It shall also indicate the cases in which the date of hearing has been fixed by a Bench.

If any omission or inaccuracy in this regard is discovered in the application later, [1][or if any Advocate whose such application has been allowed is found to have appeared before any of the Benches of the Court or before any other Court or Tribunal except where the postponement has been ordered specifically on ground of appearance before any particular Court or tribunal, in any case, whether for orders, admission or hearing, the application for postponement of cases shall stand rejected automatically].

16. Alteration of date when fixed by a Judge.—If the date of hearing in any case has been fixed by a Judge any alteration in such date shall, so far as possible, be made after consulting him.

17. Inspection of record of a case on the Cause List.—Except with the permission of the Bench or the Bench Reader, no Advocate shall be allowed access to the record of a case entered in the Cause List of a Bench before the case is called on for hearing. During the progress of the arguments in the case, any of the parties' Advocates may have access to record when it is not being actually referred to or examined by the Bench.

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[1] Added vide noti. No. 325/VIII-C-49, dt. 23.10.1978, w.e.f. 02.12.1978

CHAPTER VII

Judgment and Decree

1. Pronouncing of judgment.—(1) After a case has been heard judgment may be pronounced either at once or on some future date [1][of which notice shall be given to the Advocates of the parties:

Provided that notification in the Cause List shall be deemed to be sufficient notice.]

(2) Where a case is heard by two or more Judges and judgments is reserved, their judgment or judgments, may be pronounced by any one of them. If no such Judge be present such judgment or judgments may be pronounced by any other Judge.

[2][(3) Where a case is heard by a Judge sitting alone and judgment is reserved, his judgment may, in his absence, be pronounced by any other Judge.]

[3][(4) Ordinarily the judgement shall be delivered in the open court then and there.

(5) In any other case, such delivery of judgement shall not be postponed beyond six weeks; otherwise the case shall be treated to have been withdrawn and shall be listed for rehearing by Hon'ble the Chief Justice.]

[4][(6) (i) In a case where the judgment is reserved and is pronounced later, a column be added in the judgment where, on the first page, after the cause-title date of reserving the judgment and date of pronouncing it be separately mentioned by the Bench Secretary concerned.

(ii) The Bench Secretary/Reader of the various Benches in the High Court of Uttaranchal to furnish every month the list of cases in the matters where the judgments reserved are not pronounced withinsix weeks.

(iii) On noticing that after conclusion of the arguments the judgment is not pronounced within a period of two months the Chief justice shall draw the

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[1] Subs. Vide noti. No. 90/VIII-C-90, dt.30.03.1956, w.e.f. 09.06.1956

[2] Added vide noti. No. 1409, dt. 03.02.1953, w.e.f. 14.02.1953

[3] . insert on dated. 21.03.2001

[4]*Added by Notification No. 163/UHC-2001, dated 6th October, 2001.*

attention of the Bench concerned to the pending matter. The Chief Justice may also see the desirability of circulating the statement of such cases in which the judgments have not been pronounced within a period of six weeks from the date of conclusion of the arguments amongst the Judges of the High Court for their information. Such communication be conveyed as confidential and in a sealed cover.

(iv) Where a judgment is not pronounced within three months from the date of reserving judgment any of the parties in the case is permitted to file an application in the High Court with prayer for early judgment. Such application as and when filed, shall be listed before the Bench concerned within two days excluding the intervening holidays.

(v) If the judgment, for any reason, is not pronounced within a period of six months any of the parties of the said list shall be entitled to move an application before the Chief Justice of the High Court with a prayer to withdraw the said case and to make it over to any other Bench for fresh arguments. It is open to the Chief Justice to grant the said prayer or to pass any other order as he deems fit in the circumstances.]

2. Judgment or order to be recorded.—Every judgment or order delivered by the Court shall be recorded. Where a written judgment or order is delivered, such judgment or order shall form part of the record. Where the judgment or order is delivered orally in open Court it shall be taken down by a judgment clerk and a transcript thereof shall form part of record.

3. Transcript of judgment or order prepared by a judgment clerk.—The transcript of the judgment or order prepared by the judgment clerk shall be filed by him with the paper-book of the case to which it relates not later than on week from the date on which such judgment or order was delivered. He shall initial the transcript and enter at the foot thereof the date on which the judgment or order was delivered and the date on which the transcript was filed with the paper-book of the case.

4. Judgment or order to be sealed with the seal of the Court.—(1) When the transcript of the judgment or order prepared by the judgment clerk has been filed with the paper-book of the case, the Bench Reader shall submit it to the Judge or Judges who delivered it. It shall then be signed or initialled by such Judge or Judges after such corrections as may be considered necessary. Thereafter it shall be sealed with the seal of the Court by the Bench Reader.

(2) Where the Judge or any one of the Judges by whom the judgment

or order was delivered is not available on account of death, illness, retirement or any ;other cause, the transcript shall be submitted to the Chief Justice and it may be sealed under his orders without the signature of such Judge, an endorsement to that effect being made on such judgment or order under the signature of the Registrar.

(3) Where a written judgment or order is delivered it shall, after it has been signed or initialled by the Judge or Judges delivering it, be sealed with the seal of the Court by the Bench Reader.

5. Personal Assistants to Judges.—There shall be attached to each Judge a Personal Assistant who shall act as his judgment clerk. If the Personal Assistant is not present or the Judge needs another Judgment clerk, the senior-most Personal Assistant on duty shall make necessary arrangement.

6. Preparation of decree or formal order.—After a suit or a proceeding in the nature of a suit or an appeal from a decree has been heard and decided, a decree shall follow the judgment. In other cases, unless otherwise ordered a formal order shall follow the order finally disposing of the case or any order by which costs have been awarded.

7. Taxation of costs.—(1) Where the court has passed an order that the parties shall pay their own costs or that no costs be allowed or an order to the same effect or has passed no order as to costs no costs shall be allowed on taxation except such sum as may have been ordered to be paid by a party irrespective of the result of the case.

(2) Where a party is only partially successful and costs are ordered to be paid in proportion to the success of such party, the amount of all taxable costs payable to it shall be proportionately reduced.

8. Contents of decree of formal order.—(1) The decree or formal order shall be drawn up in the language of the court and shall bear date of the day on which the judgment or order upon which it is founded was delivered.

[Provided that Hindi may be used in place of English, on optional basis, in any judgment, decree or order to be passed by the Court. Such judgment, decree or order shall be accompanied by an authorised English translation thereof.]

(2) It shall contain the nature, number and year of the case, the names and descriptions of the parties, the names of their Advocates and a clear specification of the relief granted or other adjudication made.

(3) It shall state the amount of costs incurred in the case and by whom and in what proportions such cost and costs in the courts below, if any, are to be paid.

9. Notice of decree or formal order for objection.—As soon as the decree or formal order has been drawn up the Registrar shall cause to be exhibited on the notice board a notice stating that the decree or formal order has been drawn up. The notice shall further state that any party to it or his Advocate may on or before a date to be specified in the notice peruse the same and sign it or file with the Registrar an objection thereto on the ground that there is a clerical error or omission in the decree or formal order or that it is not in accordance with the judgment or order upon which it is founded. Such objection, if any, shall state clearly what the alleged clerical error or omission is or in what respect the decree or formal order is not in accordance with the judgment or order. It shall be signed and dated by the party or the Advocate filing it.

10. Procedure of objection.—Where an objection is filed under the next preceding Rule the Registrar shall after giving notice to the Parties concerned decide such objection with liberty to adjourn any matter to the Judge by whom such Judgement or order was delivered in Chambers. If such Judge is not available the matter shall be put up before such Judge as the Chief Justice may nominate.

11. Decree or formal order to be signed and sealed.—(1) After the decree or formal order has been corrected or altered as directed by the Registrar or the Judge, as the case may be, it shall be signed by the Deputy Registrar and sealed with the seal of the Court.

(2) If no objection is filed the Deputy Registrar shall sign the decree or formal order and seal it with the seal of the Court on the expiry of the date specified in the notice.

[1][At Lucknow Bench, however, the functions of the Deputy Registrar as mentioned in sub-rules (1) and (2) shall be performed by the Assistant Registrar, and in his absence by the Joint Registrar of that Bench.]

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[1] Added vide Noti. No. 209/VIII-e-1-, dt. 25.04.1974

CHAPTER VIII

Miscellaneous Provisions—Section A - Seal of the Court

1. Seal of the Court.—The Court shall have and use as occasion may require a seal bearing a device and impression of the Ashoka Capital with an exergue if label surrounding the same, with this inscription : "The seal of the High Court at Allahabad", and the words "SatyamevaJayate" in Devanagari script. The said seal shall be delivered to and kept in the custody of the Chief Justice in such manner as he may think fit and in case of vacancy of the office of the Chief Justice or during any absence of the Chief Justice the same shall be delivered over and kept in the custody of the person appointed to act as Chief Justice.

All writs, summons, precepts, rules, orders and other mandatory processes to be used, issued or awarded by the Court shall run and be in the name style of the Court and shall be sealed with the said seal.

Section B - Judges Sitting Alone and in Division Courts

2. Powers of a single Judge and Division Court.—Any function which may be performed by the Court in the exercise of its original or appellate jurisdiction may be performed by any Judge or by any Division Court appointed or constituted for such purpose in pursuance of Article 225 of the Constitution.

3. Procedure when Judges are divided in opinion.—When a case [1][to which the provisions of the Code of Criminal Procedure do not apply,] is heard by a Division Court composed of two or more Judges and the Judges are divided in opinion as to the decision to be given on any point, such point shall be decided according to the opinion of the majority, if there shall be a majority,. Should the Judges be equally divided they may state the point upon which they differ and each Judge shall record his opinion thereon. The case shall then be heard upon that point by one or more of the other Judges as may be nominated by the Chief Justice and the point decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

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[1] Inserted vide noti. No. 220/VIII-C-90, dt. 12.11.1955, w.e.f. 03.12.1955

Section C - Civil Jurisdiction of the Court

4. Extraordinary original civil jurisdiction of the Court.—The Court may remove and try and determine as a Court of extraordinary original jurisdiction any suit being or falling within the jurisdiction of any Court subject to its superintendence when it shall think proper to do so either on the agreement of the parties to that effect or for the purposes of justice, the reasons for so doing being recorded on the proceedings of the Court.

[1]**[5. Special appeal.—**An appeal shall lie to the Court from a judgment (not being a judgment passed in the exercise of appellate jurisdiction) in respect of a decree or order made by a Court subject to the superintendence of the Court and not being an order made in the exercise of revisional jurisdiction or in the exercise of its power of superintendence [2][or in the exercise of criminal jurisdiction [or in the exercise of the jurisdiction conferred by Article 226 or Article 227 of the Constitution in respect of any judgment, order or award - (a) of a tribunal, Court or statutory arbitrator made or purported to be made in the exercise or purported exercise of jurisdiction under any Uttar Pradesh Act or under any Central Act, with respect to any of the matters enumerated in the State List or the Concurrent List in the Seventh Schedule to the Constitution, or (b) of the Government or any officer or authority, made or purported to be made in the exercise or purported exercise of appellate or revisional jurisdiction under any such Act of one Judge.]

6. Application for declaration that the case is a fit one for appeal in the case of a judgment by one Judge.—[3][* * *].

7. Guardianship Jurisdiction.—The Court shall have the like power and authority as that which is now lawfully exercised by it with respect to the persons and estates of infants, idiots and lunatics within its territorial jurisdiction subject to the provisions of any law for the time being in force.

8. Testamentary and Intestate jurisdiction.—The Court shall have the like power and authority as that which is now lawfully exercised by it in relation to the granting of probates of last wills and testaments and letters of administration of the goods, chattels, credits and all other effects

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[1] Substituted by noti. No. 345/VIII-C-150, dt. 06.11.1963, w.e.f. 05.12.1964

[2] Subs. By noti. No. 436/VIII-C-2, dated 27.07.1983

[3] Deleted by Not. No. 345/VIII-C-150, dated 06.11.1963

whatsoever of persons dying intestate so as not to interfere with the provisions of any law by which power is given to any other Court to grant such probates and letters of administration.

9. Matrimonial Jurisdiction.—The Court shall have jurisdiction in matters matrimonial between persons within its territorial jurisdiction so as not to interfere with the exercise of any jurisdiction in such matters lawfully possessed by any Court within its jurisdiction.

Section D - Criminal Jurisdiction of the Court

10. Ordinary original criminal jurisdiction.—The Court shall have ordinary original criminal jurisdiction in respect of all persons within its territorial jurisdiction and shall in the exercise of such jurisdiction, be empowered to try all persons brought before it in due course of law.

11. Extraordinary original criminal jurisdiction.—The Court shall have extraordinary original criminal jurisdiction over all persons residing in places within the jurisdiction of any Court subject to its superintendence and shall have authority to try at its discretion any such persons brought before it on charge preferred by any Magistrate or other officer specially empowered by the Government in that behalf.

Section E - Service of Notice

12. Service of notice by post or publication.—Any notice may in lieu of or in addition to any other mode of service provided by law or by these Rules be served if so ordered by sending it by registered post addressed to the person upon whom it is to be served or by publishing it in [a daily newspaper circulating in the locality in which the defendant is last known to have actually and voluntarily resided, carried on business or personally worked for gain :]

[Provided that where an order for publication of notice has been passed by the Court or by the Registrar, as the case may be, the party on whose behalf the notice is to be published shall, within seven days from the date of the order, obtain the tentative date from the office on the prescribed form of the notice duly filled in by the party or his counsel and shall get it published before the date fixed in a daily newspaper circulating in the locality in which the respondent or the opposite party, as the case may be, is last known to have actually and voluntarily resided, carried on business or personally worked for gain :

Provided further that the party or his counsel getting the notice published as aforesaid shall so arrange that the notice is published at least ten

days before the date fixed in the notice and shall file a copy of the newspaper containing the notice before the Registrar a week before the date fixed :

Provided also that where the copy of the newspaper is not supplied within the time prescribed in the preceding proviso, the case or the application, as the case may be, on which the order for publication of notice had been passed, shall be listed before the Court for such orders as the Court deems fit.]

[*Explanation I.*—Where the party fails to file the copy of the newspaper he shall be deemed to have committed default in supplying the notice, and the provisions of Rule 4 of Chapter XII shall *mutatis mutandis* apply in such cases.

Explanation II.—A notice sent by registered post shall, unless it is received back from the post office as undelivered, be deemed to have been served at the time at which it would be delivered in the ordinary course of post.]

13. [1][* * *]

Section F - Form Of Oaths

14. Forms of oaths and affirmations.—[The following forms of oaths and affirmations are prescribed under Section 6 of the Oaths Act, 1969, namely—

(1) Form of the oath or affirmation to be administered to the witness.—"I do swear in the name of God/solemnly affirm that what I shall state shall be truth, the whole truth and nothing but the truth".

(2) Form of the oath or affirmation to be administered to the interpreter.—"I do swear in the name of God/solemnly affirm that I will well and truly interpret and explain all questions put to and evidence given by witnesses and translate correctly and accurately all documents given to me for translation".]

Section G - Record of Evidence

15. Recording of evidence.—(1) Witnesses in attendance shall be examined orally under the direction and supervision of the Court and their evidence taking down in the form of question and answer or in that of a

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[1] Deleted by Not. No. 253/VIII-C-2, dated 26.11.1980

narrative by a judgment clerk or by such other person as may be appointed for the purpose.

(2) The evidence so taken down or, if it is taken down in shorthand the transcript of the shorthand note shall be read and, where necessary, interpreted to the witness and shall be signed by him, and the Judge shall also sign it after making such corrections therein as may be found necessary.

16. Evidence recorded by another Judge.—Except as provided by law where at any stage of the hearing of a suit or other proceeding any Judge or Judges constituting the Bench are replaced by another Judge or Judges, such Judge or Judges may deal with any evidence taken under these Rules as if such evidence had been taken under their direction and supervision and proceed with the suit or other proceeding from the stage at which it may be when the case is taken up by them.

Section H—Issue of Commission

17. Deposit of expenses of commission.—[1] **[****] [2] **[**No] commission may be issued by the Court unless the party at whose instance or for whose benefit such commission is to be issued [or the prosecution in criminal cases] has deposited with the Cashier within such time as may be fixed, such sum as the Court may consider reasonable for the expenses of the commissions.

Section I—Furnishing Security

18. Form of security.—Security furnished under the provisions of Order XLV of the Code or otherwise in pursuance of any order of the Court shall unless otherwise ordered be furnished in the form of cash or Government securities or Post Office National Savings Certificates or immovable property.

19. Determination of sufficiency of Government securities of PONS Certificates.—In determining the sufficiency or otherwise of the security when furnished in the form of Government securities or Post Office National Savings Certificates, the value on the date on which such security is furnished, and not the face value, shall be taken into consideration.

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[1] The words " Except In criminal cases" deleted by Noti. No. 680/VIII-C-2, dt. 26.11.1980 w.e.f. 11.04.1991

[2] Substituted by Noti. No. 680/VIII-C-2, dt. 26.11.1980, w.e.f. 11.04.1981

20. Endorsement in case of Government securities.—Where security is furnished in the form of Government securities, they shall be endorsed in the name of the Registrar.

21. Procedure when PONS Certificates are given as security.— Where security is furnished in the form of Post Office National Savings Certificates, they shall be in the name of the Registrar.

In such case the following procedure shall be followed, namely-

(a) If fresh certificates have to be purchased, the application for the purchase of such Certificates shall be signed by the pledger and handed over to the Registrar along with an affidavit affirming that his total holdings in the post office - including the amount of the Certificates proposed to be pledged as security do not exceed the maximum amount prescribed for individual investment under the [postal rules].

(b) If the Certificates stand in the name of the pledger, he shall present them to the Registrar along with an application addressed to the Postmaster at Allahabad or Lucknow, as the case may be, praying that the Certificates be transferred to the name of the Registrar, and an affidavit as required by clause (a).

(c) The Registrar shall, if he is satisfied that the application is in order, give the pledger an authority to the Postmaster at Allahabad or Lucknow, as the case may be, to invest the amount of security in the following form :

"I hereby sanction the investment of Rs..... in Post Office National Savings Certificates on account of security pledged to the Registrar of the High Court of Judicature at Allahabad in .....no.....of 20 ."

(d) The pledger shall thereafter present the cash or the Certificates, as the case may be, along with the necessary papers to the Postmaster concerned who will then either issue the Certificates in the name of the Registrar of transfer them to his name. The Certificates shall thereafter be deposited by the pledger with the Registrar.

(e) When the security is to be released, the Registrar shall return the Certificates to the pledger giving him written authority to resume possession. The pledger may thereafter present such authority and the Certificates at the Post Office concerned and have the Certificates transferred to his own name.

22. Particulars of security to be stated in memorandum.—Where security is furnished in the form of cash, Government securities of Post Office National Savings Certificates it shall be accompanied by a memorandum containing all necessary particulars.

23. Security of immovable property.—Where the security offered consists of immovable property, the person giving such security shall file a security bond duly registered hypothecating such property in the name of the Registrar and his successors-in-office together with - (1) a specification of the title of the mortgagor, (2) an affidavit of the person executing the security bond affirming that the property secured is of sufficient value to cover the amount of security required, and (3) the necessary certificate from the Registration office concerned indicating that the property is free from encumbrances or, in case the property is encumbered, the particulars and extent of such encumbrances. The Court may before accepting such security direct that it be verified by the District Judge of the district within which such immovable property is situated.

Section J - Summary Determination of Appeal

24. Application for summary determination of a First Appeal.—(1) A respondent to a first appeal [1][* * *] who has filed no cross-objection, may on receipt of a notice to appear and answer the appeal and within thirty days of the date fixed in the notice for his appearance make an application for the summary determination of the appeal on the ground that it is frivolous or vexatious or that it has been filed merely to cause delay or that it can be disposed on of a preliminary ground and that a paper-book is not necessary for its disposal.

(2) The application shall be accompanied by documentary proof of the fact that a copy of the application has been served on the appellants' Advocate. Such proof may consist of an acknowledgement from such Advocate of having received the copy or a postal acknowledgement in case the copy was served on him by registered post or an affidavit showing how the service was effected.

(3) The application along with the appeal shall be listed for hearing as early as possible after the expiry of thirty days from the date when notice of the application was served on the appellants' Advocate provided that no

[1] Omitted by Noti. No. 680/VIIC-2, dt. 26.11.1980 w.e.f. 11.04.1981

cross-objection has been filed in the appeal. If the Court does not summarily dismiss the appeal, it shall reject the application and thereafter the appeal shall proceed as if no application under this Rule had been made. In case a cross-objection has been filed before the application is listed for hearing, the court shall reject the application.

Section K - Civil Revisions and Appeals from Appellate Orders

25. Civil Revisions and Appeals from Appellate Orders.—Subject to these Rules, the procedure prescribed in [1][Order XLI] [2][* *] of the Code with respect to appeals shall, so far as may be, also apply to revisions and appeals from appellate orders where such appeals are allowed under any law.

Section L - Connecting Cases

26. Connecting Cases.—No application shall be required for connecting cases arising out of the same decree, judgment or order and such cases shall be connected whether there be any application or not.

When any other cases are sought to be connected, a properly stamped application shall be presented to the Registrar after giving notice to the Advocates for all the other parties to such cases. The signature of an Advocate on such application shall be sufficient indication that notice has been given to him. Any party desiring to contest the application may file an objection within ten days. Where no objection has been filed, the Registrar may pass orders on the application. Where an objection has been filed, the application shall be listed before the Court for orders.

Section M - Paper-Book

27. Exclusion of papers from paper-book by order of Chief Justice.—The Chief Justice may be general order direct that any copy or paper required under these rules to be included in a paper-book be not so included therein. In such case the original paper on the record of the case shall be entered in the general index and clearly flagged.

28. Inclusion of papers in paper-book by order of the Bench.— Where the Bench hearing the case requires any paper not on the paper-book to be copied, transliterated or translated, typed copy or transliteration or translation, of such paper shall be included in the paper-book.

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[1] Subs. By noti. No. 680/VII-C-2, dt. 26.11.1980 w.e.f. 11.04.1981

[2] Omitted by noti. No. 680/VII-C-2, dt. 26.11.1980 w.e.f. 11.04.1981

29. Inclusion of transliteration or translation instead of a copy in paper-book.—The Chief Justice may from time to time issue directions as to the manner in which and the conditions according to which transliteration or translation of any paper on the record of a case may be prepared for inclusion in the paper-book instead of a copy as required by these Rules.

Section N - Information on Application

30. Information on Application.—(1) Any person desirous of ascertaining the serial number or date of institution or other registered particulars respecting a case or proceeding, shall present or send by post to the Registrar a written application bearing a court-fee label of the value of [1][Rs. 5.00] giving the best particulars he can as to the nature of the case, the year of institution and the names of parties. [2][If detailed information in a pending case is required, the person seeking such information shall similarly make an application for the purpose, bearing a court fee label of the value of [3][Rs. 5.00]].

The Registrar shall forward such application to the Section Officer of the department concerned, who shall have the application marked with a serial number and return it with the necessary information, if obtainable, to the applicant within three days from the date of receipt of the application or earlier, if possible. If such information cannot be given within the aforesaid period the Superintendent shall on the expiry of the said period report to the Registrar the cause of non-compliance and specify the date when it would be possible for such information to be supplied. The application shall be returned to the applicant and the information given to him when he returns it to the Registrar after such date.

(2) Where the applicant desires that the information be sent to him by post, he shall attach to his application postage stamp of the requisite value to enable the application to be returned to him along with the reply by post.

(3) A translation of this Rule in Hindi shall be pasted on the notice board in a conspicuous place in the Court-house.

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[1] Subs. By noti. No. 616/xd-188, correction slip no. 224, dt. 30.11.1996 w.e.f. 04.01.1997

[2] Added vide noti. No. 24/VIII-C-189, dt. 01.11.1977, w.e.f. 31.12.1977

[3] Subs. Vide noti. No. 516/xd-188, CS no. 224, dt. 30.11.1996, w.e.f. 04.01.1997

(4) Section Officers of the Judicial and Criminal Departments shall each maintain a register of applications made under this Rule in the form given below:

Applications for Information (Chapter VIII, Rule 30)

Sr. No.	Date	Name of Applicant	Description of case	Number of questions asked	Value of court-fee labels affixed	Date of return of application	Remarks

31. Information on application by a party.—A party to a ing [1][or decided] case or proceeding may obtain information with respect to such case or proceeding by means of a written application in the prescribed form. A fee of [2][Rs. 5.00] for every question asked shall be paid in court-fee labels affixed to the application.

The questions asked must be of a simple nature admitting of a short answer and in no circumstances shall the right conferred by this Rule be so exercised as to be a substitute for obtaining more detailed information by an inspection of the record or by an application for copy.

[3][Detailed information on one subject in a pending case on proceeding can also be obtained under this rule by means of a written application in the prescribed form, bearing court fee label of the value of [4][Rs. 5.00].

Section O - Approved Law Journals

32. Supply of copies of Judgments to approved law journals.—(1) Rules 16, 17, 24, 25, 26, 27 and 28 contained in Chapter XL, Part VIII

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[1] Inserted vide noti. No. 14/VIII-C-175, dt. 29.06.1977, w.e.f. 03.09.1977

[2] Subs. Vide noti. No. 516/sd-188, CS no. 224, dt. 30.11.1996, w.e.f. 04.01.1997

[3] Added vide. Noti. No. 24/VIII-C-189,dt.01.11.1977, w.e.f.31.12.1997

[4] Subs. Vide noti. No. 516/xd-188,CS no.224, dt. 30.11.1996, w.e.f. 04.01.1997

shall, so far as may be, apply to the issue of copies of judgments approved for reporting to representatives of approved law journals. The other Rules contained in that Chapter shall not apply.

(2) The issue of copies to representatives of such journals shall be governed by the following provisions namely.—

(a) An approved list of law journals entitled to receive copies of judgments approved for reporting under the Rule shall be maintained under the orders of the Chief Justice.
(b) No law journal shall be entered in the list unless it has given an undertaking that it will apply for a copy of every judgment delivered by the Court which is marked A.F.R. (Approved for Reporting.)
(c) No law journal on the approved list shall be entitled to receive more than one copy of such judgment under this Rule.
(d) As soon as a judgment has been approved for reporting by the Court, [1][the Bench Secretary] shall enter it in a register to be called "Register of judgments marked A.F.R.", the entries being made in chronological order. He shall send such judgment immediately to [2][the Section Officer concerned of the Judicial or the Criminal Department, as the case may be.]
(e) As soon as a judgment marked A.F.R. has been received by the Section Officer concerned he shall send it to the Section Officer of the Copying (E) Department] for the preparation of as many copies as there are law journals on the approved list together with one copy[3][each] for the Indian Law Reports (Allahabad Series)[4][and All India reporter (AIR) free of cost].
(f) Two registers in the prescribed form to be called "Register of Copies of Judgments marked A.F.R." and "Register of Applications for Copies of Judgment marked A.F.R." respectively shall be maintained by the [Section Officer of the Copying (E) Department] with respect to such copies.
(g) Copies prepared under this Rule shall contain the following additional information, namely,-
    (i) the names of Advocates appearing in the case on both sides;
    (ii) the names of Judges delivering the judgment of the Court; and

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[1] Subs. Vide noti. No. 680/VII-C-2, dt. 26.11.1980, w.e.f..11.04.1981 CS no. 204

[2] Added by noti. No. 44/UHC/Admit-A,2003 dated: 15.04.2003

[3] Added by Noti. No. 44/UHC/Admn. -A, 2003 dated April 15,2003
[4] Added by Noti. No. 44/UHC/Admn. -A, 2003 dated April 15,2003

(iii) full designation of the lower court along with the date of its judgment or order.

Such additional information shall be sent to [1][the Section Officer, Copying (E) Department] by [2][the Section Officer concerned of the Judicial or the Criminal Department, as the case may be] along with the judgment.

(h) Copies prepared under this Rule shall be given priority over all ordinary copies and shall be prepared as quickly as possible.

(i) As soon as copies are ready, the first impression copy shall be delivered to the Law Reporter representing the Indian Law Reports (Allahabad Series) and [3][All India Reporter] on his submitting an application for copy to the Section Officer, Copying (E) Department. Such application shall require no stamps. The remaining copies shall be delivered to the representatives of the other journals on the approved list on their submitting a duly stamped application and paying the necessary charges as required by the Rules.

(j) If the representative of any law journal on the approved list other than the Law Reporter does not apply for copy of any judgment marked A.F.R. within three weeks from the date on which it is so marked the name of such journal may be removed from the approved list.

(k) The "Register of Copies of Judgments marked A.F.R." shall be open to inspection by the Law Reporter or his clerk or by the representative of any law journal on the approved list.

Section P - Miscellaneous

33. Certain applications to be laid before Chief Justice for orders.—An application for the expediting of the hearing of a case or for listing a case out of turn or for the removal of a case to be tried and determined by the Court under Rule 4 or for the withdrawal of a case under Art. 228 of the Constitution shall be laid before the Chief Justice [or any other Judge or a Bench nominated by the Chief Justice in respect of any case or class of cases] for orders.

34. Examination of records.—Immediately on the receipt of a record, the office shall examine its condition and note on the form for transmis-

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[1] Added by Noti. No. 44/UHC/Admn. -A, 2003 dated April 15,2003

[2] Added by Noti. No. 44/UHC/Admn. -A, 2003 dated April 15,2003

[3] Added by Noti. No. 44/UHC/Admn. -A, 2003 dated April 15,2003

sion of record received along with the record the date of its receipt and its condition. The record shall thereafter be examined and if on such examination it is found that any paper is missing from the record or is mutilated, or that the record is in any other respect defective, a note thereof shall be made forthwith on the back of the aforesaid form and it shall be laid before the Registrar for such orders as he may deem fit to pass.

35. Receipt of papers filed.—Any party to a case or his Advocate desirous of obtaining a receipt for any paper including an application, Vakalatnama or retainer or appearance slip shall attach to and present with such paper a receipt slip in the subjoined form. The slip shall be signed in acknowledgement of the receipt of such paper by the [1][Bench Secretary] or other official receiving such paper and returned to the person presenting it :

Description of case	Name and description of person filing paper	Description of paper receiving	Signature of official paper and date of receipt
1	2	3	4

36. Transliteration or translation of document filed in court.—(1) Where a document filed by a party in Court in any case or proceeding is not in Hindi written in the Devanagari character or in the language of the Court, it shall, subject to any general or special orders of the Chief Justice or the Court, file therewith if the document is in Hindi but is not written in Devanagari character, a transliteration thereof in such character or if the document is in another language a translation thereof in the language of the Court.

(2) Such transliteration or translation shall be verified to be correct by the Advocate of the party filing it or by the person making it. In the latter event such person shall give his full name and address with such particular as may be sufficient to identify him and verify such transliteration or translation in the following manner, namely-

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[1] Subs. Vide noti. No, 680/VII-C-2, dt. 26.11.1980, w.e.f. 11.04.1981

"I, A, B, do declare that I read and understand the language and character of the original and that the above is a true and accurate transliteration/translation thereof."

Such transliteration or translation shall, if so ordered by the court, be revised and certified as correct by [1][the Section Officer of the Translation Department, may be filed in court along with the document.]

(3) In lieu of the method indicated in the foregoing sub-rule the party required to file a transliteration or translation of a document may on application to the Registrar have such document transliterated or translated, as the case may be, by a translator on the establishment of the Court and such transliteration or translation certified to be a true transliteration or translation by [2][the Section Officer of the Translation Department, may be filed in Court along with the document.]

(4) The charges for the transliteration or translation of documents under this Rule shall be such as may be fixed from time to time by the Registrar. Where by these Rules a transliteration or translation may be certified as correct by 88[the Section Officer of the Translation Department] the person applying for such certificate shall pay such charge as may be prescribed by the Registrar not exceeding sixty per cent of the charges prescribed for the transliteration or translation of such document. If the transliteration or translation is so defective that the work of revision and correcting it practically amounts to transliterating or translation it afresh the full charges may at the discretion of the Registrar be charged for such work.

37. Application of Rules 14 to 21 of Chapter XV to other civil proceedings.—Rules 14 to 21 of Chapter XV of Part II shall also be applicable in the case of civil proceedings other than those to which the Rules contained in that Chapter apply.

38. Application of other Rules to Part III, IV, V or VII.—(1) Where any Rule contained in Part III, IV, V or VII is inconsistent with any Rule in any other Part the former shall prevail and the latter shall, to the extent of such inconsistency, be deemed to have been modified or repealed so far as the former is concerned.

(2) Subject to the provisions of sub-rule (1) the Rules contained in Part

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[1] Sub. Vide noti. No. 680/VII-C-2, dt. 26.11.1980, w.e.f. 11.04.1981

[2] Sub. Vide noti. No. 680/VII-C-2, dt. 26.11.1980, w.e.f. 11.04.1981

II shall, so far as may be and with necessary modifications and adaptations, also apply to proceedings under the said Parts.

[1][**38A. Adjustment of appeals, petitions and references etc.—**The provisions contained in Rules 1 to 6 and 9 of Order XXII and in Order XXXII of the Code of Civil Procedure shall, so far as may be and with necessary modifications and adaptations, apply to special appeals, writ petitions under Article 226 of the Constitution and Tax Acts references and revisions falling under Chapter IX, XXII and XXVII of these rules.]

39. Forms.—The forms set forth in Schedule III to these Rules shall, with such variations as the circumstances of each case may require, be used for the respective purposes indicated therein added in these Rules.

40. Court fee to be paid in cases coming up before the Court.— Court fees shall be payable in cases coming before the Court in the exercise of its ordinary original civil jurisdiction or in the exercise of its jurisdiction as regards appeals from judgment passed by it in the exercise of its ordinary civil jurisdiction to the extent to, and the manner in which they are payable in similar classes of cases coming before it, under the provisions of Section 4 of the Court Fees Act, 1870.

41. Restriction on carrying of arms.—No person, not belonging to the security force on duty shall carry or have in his possession within the court premises any arm as defined in sub-clause (c) of sub-section (1) of section (2) of the Arms Act, 1959, except by authority in writing of the Chief Justice.

Explanation I.—The expression 'Security force' shall include such member of the Police Force, P.A.C. or any other like force as may be placed at the disposal of the Court for purposes of security and for maintenance of law and order within the court premises.

Explanation II.—The expression 'Court premises' shall mean all land, buildings and structures situate within its limits at Allahabad and Lucknow including buildings in the occupation of the Members of the Bar, but shall not include residential quarters, if any, of the Judges, officers and staff situated within its bounds.

[2][**42. Dress for Officer, Official and Advocates' Clerks of the High**

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[1] Added vide noti. No. 310/VIII-C-169, dt. 03.08.1964

[2] Inserted by CS no. 223, dt. 30.01.1993, published vide noti. No. 35/VIII-C-187-Admin (G-1)

Court.—*(1) Class I, II and III employees.*—They shall wear buttoned up coat,*Achkan* or *Sherwani*, of black colour with black shoes. They may wear an open neck coat of the same colour instead and they shall wear a black tie with it. With the coat, trousers and with the *Achkan* or *Sherwani*, *ChooridarPaijama* or trousers shall be worn.

The officer of the Court in the Registry may wear aforesaid dress of any sober colour.

***(2) Lady Employees.*—**They shall wear a regional dress of subdued colour with a black coat.

(3) Advocate's Clerk.—They shall wear buttoned up coat, Achkan or Sherwani of black colour with black shoes. With the coat, trousers and with theAchkan or Sherwani, ChooridarPaijama or trousers shall be worn.

***(4) Class IV employees.*—**They shall wear uniform as prescribed by the Court from time to time.

43. Entry in Court Building.—(1) Officers/ Officials/ Advocates/ Clerks of Advocates for whom dress has been prescribed shall enter in the Court Building in the prescribed dress. The officers, officials and clerks of advocates shall also carry their identity cards issued to them from High Court Officer and the Advocates shall carry with them the identity card issued by the concerned Bar Council.

(2) Entry of all other persons into the Court Building shall be regulated by entry passes only, which shall be issued from the Protocol Section of the Court.]

Note.—The amendment shall come into force from the date of publication in the Uttarakhand Gazette.

Part II - Civil Jurisdiction –

CHAPTER IX

Appeals and Applications

1. General heading of application and memorandum of appeal or objection.—(1) Every memorandum of appeal or objection and every application other than an application made in any case pending in the Court shall bear the general heading :

"In the High Court of Judicature at Allahabad".

and shall have written on it immediately below such heading the following, namely-

(a)	In the case of a memorandum of appeal or objection, or application for review or revision.	The description such as, 'First Appeal'; 'Execution First Appeal', 'First Appeal From Order', 'Execution Second Appeal', 'Second Appeal From Order', 'Special Appeal', 'Civil Revision' or 'Application for Review, 'as the case may be, followed by a reference to the section and the Act or the Rule under which it is filed and below it the words 'no. of (year)' and
(b)	in the case of other	The words 'Civil Miscellaneous Case no. of (year)' followed by a reference to the section and the Act or the Rule under which it is filed.

[1][(c) [In appeal titled as Execution Appeal, First Appeal, Appeal arising against the order of the Land Acquisition Reference, Motor Accident Claims, Railway Claims, Workmen Compensation Claims and any other appeal which is not covered under sub-rule (a) (b) of Chapter IX will be numbered and titled as appeal against the Order (A.O.)."

[1] Added by Notification No. 162/UHC-2001, dated 6th October, 2001

First Appeal arising under Section 96, C.P.C. will be titled and numbered as First Appeal (F.A).

Second Appeal under Section 100, C.P.C. will be titled and numbered as Second Appeal (S.A.).]

(2) Every application made in a pending case shall state the section and the Act or the Rule under which it is made. It shall bear the general heading :

"In the High Court of Judicature at Allahabad"

and shall have written on it immediately below such heading the following, namely-

[Civil Miscellaneous Application .....(No. and year of the application).

Under ..... (state law) ..... (Name of the applicant) ..... In ..... (Nature, number and year of the pending case).

Versus

(Name of the parties of the pending case)]

(3) Every memorandum of appeal or objection and every application shall be in the language of the Court.

Every application [1][except those mentioned in rule 12] shall set out concisely in numbered paragraph the facts upon which the applicant relies and the grounds upon which the Court is asked to grant the relief asked for and shall conclude with a prayer stating clearly, so far as circumstance permit, the exact nature of the relief sought.

[2][(4) The appellant or the applicant, as the case may be, shall append a note duly signed by the appellant, applicant or the advocate engaged in that behalf, at the bottom of the memorandum of appeal or application stating clearly the name, parentage and address of the person arrayed as a party in the appeal or application, who did not file a written statement or objection in the trial court/court below, or who, having filed the written statement or objection, did not thereafter contest the case, or who was be-

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[1] Ins. Vide noti. No. 808/C-VIII-141, dt. 18.01.1975 published on dt. 03.04.1976

[2] Inserted vide noti. No. 680/VIII-C-1, dt. 26.11.1980, w.e.f. 11.04.1981

ing arrayed only as proforma respondent or opposite party.]

2. Appeals, references and miscellaneous applications to be registered and numbered.—(1) [Appeals, references and all applications referred to in Rule 1, except those expressly exempted, shall be separately registered and numbered immediately after they have been received.]

(2) Every defective appeal or application required to be registered and numbered under sub-rule (1) shall be entered in a register of defective cases. After the defect has been removed it shall be entered in the appropriate register of regular case and numbered.

3. Application for extension of time.—An application for extension of time after time has been granted for depositing security or costs of translation and printing or filing an affidavit or taking any other step for the progress of a case, shall be in writing.

4. Full description of parties.—Every person presenting an application or arrayed as an opposite party therein shall be described with such particulars as will ensure his clear identification, such as his full name, the name of his father, his religious persuasion, his rank or degree in life, his profession, calling, occupation or trade and his true place of residence.

5. Application to be divided into paragraphs.—Every application containing a statement of facts shall be divided into paragraphs which shall be numbered consecutively and each paragraph shall, as nearly as may be, be confined to a distinct portion of the subject.

6. Water-marked paper to be used.—Every memorandum of appeal or objection or application shall be fairly and legibly written or typewritten, lithographed or printed with quarter margin on one side only of Government watermarked paper :

Provided that the Court may, when considered necessary, permit any other paper of foolscap size or both sides of the paper to be used for the purpose.

7. Contents of memorandum of appeal or application for review or revision.—(1) Every memorandum of appeal or application for review shall state-

(a) the name and address of each of appellant or applicant and whether he was plaintiff or defendant or opposite party in the Court of first instance;

(b) the name and address of each person whom it is proposed to join as

respondent or opposite party and whether he was plaintiff or defendant or applicant or opposite party in the Court of first instance;

(c) The name of the Court by which, [1][…..] decree or order objected to was made;

(d) the number and the description of the case;

(e) the date when decree or order was made;

(f) the grounds, numbered consecutively, of objection to such decree or order;

(g) the precise relief sought;

(h) the value of the suit and appeal separately for purposes of (1) jurisdiction, and (2) Court-fees; and

(i) in the case of an appeal from an original decree, whether the out of which appeal arises has already been before the Court on appeal;

and shall be signed by the appellant or the applicant as the case may be, or on his behalf, by an advocate on the roll of the Court,

(2) In special appeals, the appellant must furnish two sets of the entire pleadings, which was there before the learned Single Judge;

(3) If the advocates are relying upon any judgement, they must have three photocopies thereof ready, two for the Judges and one for the other side.

Where the particulars indicated in clauses (1), (2) and (3) are not available at the time of filing of the appeal, they may be supplied as soon as available but before the hearing of the appeal by the Bench.]

8. Documents to accompany memorandum of appeal or revision application.—Every memorandum of appeal or application for revision shall be accompanied by-

(a) a copy of the decree or formal order against which the appeal or application is directed;
(b) a copy of the judgment upon which such decree or formal order is founded;
(c) a copy of the judgment of the Court of first instance where the appeal or application is directed against an appellate [or a revision-

[1] Deleted by Notification No. 229/UHC/Admin.A/2020 Dated. 28.10.2020

al] decree or order;

(d) in the case of an appeal under Section 6-A, Court Fees Act, one extra copy of each of the plaint, the order appealed against and the memorandum of appeal; and where the appeal is against an order directing payment of Court-fee on a written statement, one copy also of the written statement. Such copies shall be certified to be true either by the appellant or his counsel or recognised agent;

(e) in the case of a memorandum of appeal which is filed after the expiry of the period of limitation, an application supported by an affidavit for extension of the period of limitation under Section 5 of the Limitation Act, 1963;

(f) in the case of an appeal from an order under Rule 1 of Order XLIII of the Code or revision from an interlocutory order, copies of all other papers upon which the appellant or the applicant, as the case may be, relies;

(g) in the case of a first appeal from order, where such an appeal is to be heard by a Bench of two Judges, an extra copy of the order appealed against duly certified to be correct by the appellant or his counsel, as the case may be:

Provided that the Judge may, for sufficient cause shown, dispense with a copy of the formal order under clause (a) or a copy of the judgment under clause (b) or (c) or any paper under clause (f) or an extra copy of the order under clause (g).

No copy of any paper under clause (f) shall, however, be dispensed with unless the Court thinks that such copy is not required for the consideration of the motion for admission of the appeal or revision, as the case may be :

[1][Provided secondly that the Court may for sufficient reasons, accept memorandum of appeal without a copy of the decree appealed from, if the counsel for the appellant certifies that the copy has been applied for, within the period of limitation and has not been issued, subject to the copy being filed, subsequently within the time granted by the Court :]

Provided [2][thirdly] that where a copy of the Judgment of the Court of

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[1] Sub. Vide noti. No. 538/VIII-C-64, dt. 31.10.1972 published in 28.08.1972

[2] Sub. Vide noti. No. 538/VIII-C-64, dt. 31.10.1972 published in 28.08.1972

first instance referred to in clause (c) or any copy or copies of the papers referred to in clause (f) cannot be filed along with the memorandum of appeal or application for revision as the case may be, the Court may, on the presentation of an application accompanied by an affidavit, for sufficient cause shown, allow such further time for the filing thereof, as it may think fit :

Provided [1][fourthly] that where the affidavit is not filed with the application referred to in clause (e), it may be filed within there months of the date of the filing of the appeal.

8A. [2][* * *].

9. Certain grounds in memorandum of appeal to be certified.—If one of the grounds of appeal be that there is no evidence or admission on the record to support the decree, the fact shall be mentioned in the memorandum which there is no evidence or admission on the record.

Such ground shall not be allowed to be urged unless the Advocate for the appellant has certified und, dt. er his hand before the hearing of the apeal that he has examined the record and that the ground is well founded.

10. Special Appeal.—(i) [3][A person desiring to prefer a Special Apeal from the judgment of one Judge passed in the exercise of original jurisdiction shall present a duly stamped memorandum of appeal accompanied by a copy of the judgment appealed from within [thirty] days from the date of the judgment. The time requisite for obtaining [the copy] shall be excluded in computing the said period of [4][thirty] days.]

[5][(ii) Where a Special Appeal is presented after the expiry of the period mentioned in clause (i), [6][* * *] the memorandum of appeal shall be accompanied by an affidavit explaining the cause of delay and it shall be rejected unless the appellant satisfies the Court that he had sufficient cause for not preferring the appeal within the aforesaid time.

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[1] Subs. Vide noti.no. 538/VIII-C-64, dt. 31.10.1972

[2] Omitted vide noti. No. 507/VIII-C-17, dt. 19.10.1973 w.e.f.10.11.1973

[3] Sub. Vide noti. No. 309/VIII-C-90, dt. 10.12.1956, w.e.f.02.01.1957

[4] Sub. Vide noti. No. 8/VIII-C-90, dt. 11.01.1965

[5] Sub-rule (ii) deleted and sub-rule (iii) and (iv) re-numbered as sub-rule (iii) and sub-rule (iv) by noti. No. 345/VIII-C-150, dated. 06.11.1964

[6] Deleted by noti. No. 345/VIII-C-150, dated. 06.11.1964

(iii) The memorandum of appeal shall be drawn up so far as may be in accordance with Rules 1, 6 and 7 of this Chapter.]

(iv) The memorandum of appeal shall be accompanied by an affidavit of service stating that on the date specified a copy of the memorandum and the summons has been served on the counsel who had in the Court of Single Judge appeared for the respondents; and also stating that a copy and the summons has on the date specified, been sent by registered acknowledgement due post to each of the respondents at his registered address (except those who were represented by the Standing Counsel of the Union of India or of the State Government and also those who were unrepresented by counsel). The summons served on the respondents of the counsel shall be in Form No. 18-A

(v) If the appellant desires to file an application for interim orders he shall alongwith the application file an affidavit of service of a copy of the application on the counsel who appeared for the opposite parties in the Court of the Single Judge and stating that the date and time of the filing of the application has been intimated to him and also stating that a copy has, on the date specified therein, been sent by registered acknowledgement due post to each of the respondents (except those represented by the Standing Council of the Union of India or of the State Government and except those who were unrepresented by counsel).

(vi) The date to be entered in the summons of the appeal for appearance shall be the working day next after the expiry of six weeks of the date of filing of the appeal.

(vii) The copy of the memorandum of appeal or application, the summons and the requisite registered postage for service on unrepresented respondents or opposite parties, as the case may be, shall be filed along with the appeal.

(viii) In case more than one counsel had appeared for the same party, the copy shall be served on the junior of them.

(ix) The counsel who appeared for the respondent before the Single Judge, shall not refuse to accept the copy under sub-rules (iv) and (v).

(x) Service of the copy on the counsel or his registered clerk under sub-rules (iv) and (v) shall deem sufficient notice.

(xi) "Copy" means and include all accompaniments or annexures of the memorandum of appeal or application.

(xii) The appeal shall be listed for hearing on the working day immediately after the expiry of six weeks of the institution, unless the Bench directs otherwise:

Provided that where an application for an interim relief is filed the Bench may, after hearing the Counsel, dismiss the appeal itself or dispose of the application.

Note.—Where the application is filed subsequent to the filing of the appeal, it shall unless the Bench otherwise directs, be put up with the appeal for orders.

(xiii) Defective appeals (e.g. deficiently stamped or barred by time or those accompanied by an application for leave to appeal as pauper etc.) shall be listed for orders within a week of their institution.

(xiv) the Bench may in any case direct that the summons of the appeal or application be served afresh on the respondents or any of them.

(xv) The Bench shall pass final orders on the application for interim orders.

(xvi) If the respondent to an application for interim orders has not been heard when orders were passed under sub-rule (xv), he shall be at liberty to make an application for the vacation or modification of the interim order.

(xvii) Service of the copy on the counsel shall be effected by tendering it to him or to his registered clerk and obtaining on the original memorandum of appeal or the application an endorsement in that regard, and in case of refusal, by sending it to the counsel by registered acknowledgement due post.

11. Memorandum of appeal or objection or application to be accompanied by copies there of.—(1) Every memorandum of appeal or objection and every application shall be accompanied by as many typed copies thereof as there may be parties to be served, together with -

(i) two extra copies in a Division Bench case, [1][to be supplied at once,] and

(ii) one extra copy in every other case :

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[1] Inserted vide noti. No. 90/VIII-C-90, dt. 30.03.1956, w.e.f. 09.06.1956

[1][Provided that it shall not be necessary to supply copies for service on the parties until the Court has ordered notice to issue.]

It shall be deemed to be sufficient compliance with this Rule if the person presenting the memorandum of application gives a written undertaking to supply the necessary copies within four days of its admission. Such copies shall be certified to be correct by the party supplying them or his Advocate :

[Provided further that in every Division Bench case an extra copy of all the documents (including judgments or orders appealed against) duly certified to be correct by the appellant or his counsel, as the case may be, shall also be filed for the use of the Court along with the memorandum of appeal, objection or application. It shall not, however, be necessary to supply an extra copy of the decree or formal order.]

(2) If the requisite copies are not supplied within such time or within such further time as may, for sufficient cause shown, be allowed by the Registrar, the memorandum or application shall be listed for rejection before the Court.

(3) No order shall issue from the Court on such memorandum or application until the required copies have been supplied.

[2][(4) The copies shall be fairly and legibly written or type written, lithographed or printed with quarter margin on one side of durable paper :

Provided that the Court may, when considered necessary, permit any other paper of foolscap size or both sides of the paper to be use for the purpose.]

12. Affidavit to accompany certain application.—[3][(1) The following application shall set out the prayer stating clearly the exact nature of the relief sought and shall be supported by an affidavit setting out in the form of a narrative the material facts and circumstances, including names and dates, where necessary on which the applicant relies-]

(i) an application for review made on the ground of the discovery of

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[1] Inserted vide noti. No. 90/VIII-C-90, dt. 30.03.1956, w.e.f. 09.06.1956

[2] Added vide noti. No. 88/VIII-C-127, dt. 15.03.1971

[3] Inserted vide noti. No. 808/C-VIII-141 dt. 18.01.1975

new and important matter or evidence or any other sufficient reason;

(ii) an application for stay of execution or proceedings;

(iii) an application for the vacating of an order for stay;

(iv) an application for security, including an application under Rule 6 or 10, of Order XLI of the Code;

(v) an application for attachment before judgment or injunction or any other application under Order XXXVII or XXXIX of the Code;

(vi) an application for the appointment or discharge of a receiver;

(vii) an application for the re-admission or restoration of an appeal or application dismissed for default of appearance or for want of prosecution or for the setting aside of an *ex parte* decree;

(viii) an application for substitution of parties including an application under Rule 3 (1) or 4 (1) of Order XXII of the Code or for a note to be made on the record that the legal representative of a deceased party is already on the record or that a party has died without leaving any legal representative;

(ix) an application for the appointment, or removal of a guardian *ad litem* or next friend;

(x) an application under Rules 12, 13, 14 or 15 of Order XXXII of the Code;

(xi) an application for transfer of case including an application under Section 22 of the Code :

[1][Provided that it shall be obligatory to annex to the application for transfer of a case a copy of the order passed by the District Judge, if any;]

(xii) an application praying that a person be punished for contempt of court;

(xiii) an application by way of complaint against a legal practitioner;

(xiv) an application under Section 5 of the Limitation Act, 1963;

(xv) an application for the setting aside of an abatement;

(xvi) any application which is required by these Rules or by any other law to be supported by an affidavit; and

(xvii) any other application in support of which the Court may require an affidavit to be filed.

(2) The Court or the Registrar may call for an affidavit in any other matter coming up before it or him.

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[1] Sub. Vide noti. No. 27/VIII-C-88, dt. 22.11.1977

13. Affidavit in reply.—Any person opposing the grant of an application or showing cause against a rule may bring before the Court any facts not contained in the application of the other party, by an affidavit, containing in the form of a narrative the material facts on which he relies.

14. Contents of review application.—An application for review on the ground of the discovery of new and important matter or evidence shall state in clear terms what such new or important matter or evidences, the affect or purpose thereof, how the same after the exercise of due diligence was not within the applicant's knowledge or could not be produced by him at the time when the decree was passed or order made and how and when he came to know of it or became able to produce it and the affidavit accompanying it shall be made by the applicant himself.

15. Contents of application for stay.—An application for stay of execution of, or proceedings under, a decree or order shall contain such of the following particulars as may be material to such application, namely-

(a) the date of the decree or order;

(b) the particulars and nature of the suit to which the proceedings relate and the Court to which the stay order is to be communicated;

(c) the date of the order for sale, if any;

(d) the date fixed for sale, if any;

(e) the grounds upon which stay is sought; and

(f) where stay is sought under Rule 5 (1) or Order XLI of the Code, the facts necessary to satisfy the Court as to the matters mentioned in sub-rule (3) of that Rule.

16. Advocate's certificate as to sufficiency of court-fee.—Where an application for stay of execution of, or proceedings under, a decree is presented through an Advocate before the admission of the appeal in which the application is made, it shall also bear a certificate of such Advocate stating that to the best of his knowledge and belief the full court-fee payable on the memorandum of appeal has been paid.

17. Contents of application for re-admission or the setting aside of an ex parte decree.—(1) An application for the re-admission of an appeal or application dismissed for default of appearance, shall state the circumstances in which such default was made, and whether or not the party concerned had, previous to such dismissal engaged an Advocate to conduct such appeal or application.

Where an advocate had been so engaged, the application shall further state the name of such Advocate, the date when he was engaged, the amount of fee agreed to be paid and whether the full fee had been paid to him before the date of such dismissal. And the affidavit in support of these facts shall, if possible, be based on the personal knowledge of the deponent and not merely on his information and belief.

(2) The provisions contained in sub-rule (1) shall with necessary adaptations and modifications apply to an application for the setting aside of an *ex parte* decree or order.

18. Contents of application for substitution.—(1) An application to bring on record the legal representatives of a deceased party shall state the precise date of the death of the party concerned.

19. Contents of application for appointment of guardian or next friend.—(1) An application for the appointment of a guardian ad litem or next friend of a minor shall state -

(a) whether or not the minor has a guardian appointed under the Guardian and Wards Act, 1890, and if so, his name and address;
(b) the name and address of the father or other natural guardian of the minor;
(c) the name and address of the person in whose care the minor is living;
(d) how the person sought to be appointed guardian or next friend is related to the minor;
(e) that the person sought be appointed guardian or next friend has no interest in the matters in controversy in the case adverse to that of the minor and that he is a fit person to be so appointed;
(f) whether the minor is less than ten years of age.
(2) The provisions contained in sub-rule (1) shall apply *mutatis mutandis* to an affidavit accompanying an application for appointment of a guardian *ad litem* or next friend of a person of unsound mind.

20. Prayer for an order of interlocutory nature.—A paper for stay of execution or proceedings or for the vacating of an order staying execution or proceedings or for admitting additional evidence or for any other order of an interlocutory nature shall not be contained in the memorandum of appeal or the application for revision to which it relates but shall be made by a separate application.

21. Defective application or memorandum of appeal or objection may not be received.—(1) No application or memorandum of appeal or

objection shall be received if it is not in the proper form or is not accompanied by the necessary documents :

Provided that the Judge or the Registrar, as the case may be, before whom such application or memorandum is presented, may receive it and for sufficient cause shown, grant such time as he may consider proper for supplying such documents or removing such defects, and Provided further that nothing done under the first proviso shall have the effect of extending the period of limitation in the case of memorandum of appeal where the copy of the judgment or decree or formal order is not filed within the prescribed time.

(2) The required documents are not supplied or the defects are not removed within the time allowed by the Judge or the Registrar, as the case may be, the application or memorandum of appeal shall be listed for rejection before the Court.

22. Certain copies not to be returned.—No copy of a judgment, decree or formal order accompanying a memorandum of appeal or an application for revision, shall be returned unless such memorandum or application itself is ordered to be returned.

CHAPTER X

Appeal or Application by or against Legal Representative, Assignee, etc.

1. Appeal by legal representative, assignee, etc.—Where by a decree or order which is applicable to the Court the interest of-

(a) a legal representative as such of a deceased party to such decree or order, or
(b) an assignee of a party to such decree or order by assignment subsequent to the date of the decree or order, or
(c) a beneficiary in such property as was at the date of such decree or order vested in, or in the possession of, a trustee, executor or administrator or a receiver or manager appointed by a Court, who as such was a party to such decree or order, or
(d) a person whose interest arose after the date of such decree or order by reason of any creation or devolution of interest by, through, or from any party to such decree or order,

is affected, and such legal representative, assignee, beneficiary or person desires to appeal therefrom, he may name himself in the memorandum of appeal as an appellant.

He shall also present along with such memorandum of appeal an application, accompanied by an affidavit, for leave to make himself an appellant, stating in the application such facts as may be necessary to support it :

Provided that no such application shall be required if such legal representative, assignee, beneficiary or person, has already been made a party to any proceeding under the decree or order appealed from subsequent to the date on which it was passed. In such case a note to that effect shall be made in the memorandum of appeal.

2. Appeal against legal representative of deceased party.—Where a person has died after the date of an appealable decree or order to which he was a party, any other party to the decree or order who wishes to appeal therefrom may enter the name of the legal representative of the person who has died, in the memorandum of appeal as a respondent if that person would, if alive, have been a necessary or proper party to appeal. The appellant shall also present along with his memorandum of appeal an application for leave to make such legal representative a respondent to the ap-

peal. The application shall state such facts as may be necessary to support it and shall be accompanied by an affidavit :

Provided that no such application shall be required if such legal representative has already been made a party to any proceeding under the decree or order subsequent to the date on which it was passed. In such case a note to that effect shall be made in the memorandum of appeal.

3. Appointment of legal representative or deceased party after the filing of appeal.—Where after a memorandum of appeal has been presented to the Court, any appellant or any party interested in the maintenance of an objection filed under Rule 22 of Order XLI of the Code, is informed that any person who is arrayed as a party in such appeal or objection had died before the memorandum of appeal was presented but after the decree or order appealed from was passed, he may, subject to the law of limitation, make an application for an order that the memorandum of appeal be amended by substituting for the person who is dead, his legal representative. The application shall state such facts as may be necessary to support it and shall be accompanied by an affidavit.

4. Death of party after hearing but before Judgment.—For the purposes of Rules 1, 2 and 3 a person who died after the conclusion of the hearing but before the pronouncement of the judgment or order appealed from shall be deemed to have died after the date of the decree or order.

5. Time may be allowed for filing affidavit.—Where an application is presented under Rules 1, 2 or 3 without an affidavit, the Court may allow reasonable time for the presentation of such affidavit if it is satisfied that the applicant could not by the exercise of due diligence have procured it in time for presentation along with the application.

6. Substitution to operate in respect of all future proceedings in the case.—Where the legal representative of a deceased party has been brought on the record on an application under Rules 1, 2 or 3 such substitution shall operate in respect of all future proceedings in the case.

7. Special Appeals and applications for review and revision.— Rules 1 to 6 shall, with necessary modifications and adaptations, also apply to special Appeals and applications for review and revision.

CHAPTER XI

Presentation of Appeals and Applications

1. Presentation of appeals and applications.—Every memorandum of appeal or objections under Rule 22 or 26 of Order XLI of the Code and every application shall be presented for admission in Court.

This Rule shall not apply to appeals and applications that may under these Rules be filed before the Registrar or other officer.

2. Application Judges to be notified each day.—The Judge or Judges before whom appeals, objections or applications may be presented and motions made in different classes of cases, shall be notified for each day by the office in accordance with the directions of the Chief Justice.

3. Office report.—No memorandum of appeal or objections under Rule 22 or 26 of Order XLI of the Code and no application for revision shall be presented unless it bears an office report specifying-

(a) in the case of memorandum of appeal or objections, or an application for revision, that it is within time or, if beyond time, the period by which it is beyond time;
(b) whether the case is or is not such as may be heard by a Judge sitting alone;
(c) whether it is accompanied by the necessary papers, if any;
(d) whether any court-fee is payable or not;
(e) where court-fee is payable, whether the court-fee paid is sufficient and in case it is deficient, the extent of such deficiency; and
(f) whether it is drawn up in accordance with these Rules, or other law and, if not, in what manner it is defective.

Where a report under clause (e) cannot be made without an examination of the record, the office shall state that a further report would be made on receipt of the record.

4. Objection as to court-fee to be decided by Taxing Officer.—If the appellant or the applicant, as the case may be, or his Advocate contests the office report as to court-fee, he shall, before presenting the application or memorandum of appeal or objections, take it to the Taxing Officer for the determination of his objection and the Taxing Officer shall determine it forthwith.

If the Taxing Officer decides that there is a deficiency in the amount of

court-fee paid, the appellant or the applicant as the case may be, shall make good such deficiency before presenting the memorandum or application in Court :

Provided that if limitation is about to expire and the time is too short to enable the appellant to make good such deficiency, he may present the memorandum of appeal or application in Court and make good such deficiency within such time as may be allowed by the Court.

If the Taxing Officer is unable to decide such objection forthwith and the limitation is about to expire, the appellant or the applicant, as the case may be, may obtain from him an endorsement to that effect and may thereafter present such memorandum or application in Court.

5. Final report as to court-fees in First Appeal.—In every first Appeal the record shall be examined by the office as soon as may be after it has been received and a final report made as to the sufficiency of court-fees.

6. Procedure in case of insufficiently stamped documents.—(1) Whenever on an examination of the record under the last preceding Rule, or otherwise, the Stamp Reporter or any other officer appointed in this behalf, finds that a document has been filed without being properly stamped, he shall make a report to that effect indicating the precise amount of deficiency and such report shall be shown to the Advocate of the party concerned.

(2) Such Advocate shall at once initial the report and note thereon whether or not he contests the accuracy thereof. If he contests it, he shall within three weeks or such further time as the Taxing Officer may allow, file his grounds of objection. If no such note is made or no such objection is filed within time, he shall be deemed to have accepted the report.

(3) Where the deficiency relates to a document received in Court, the Taxing Officer shall decide such objection.

(4) Where the deficiency relates to a document received in a lower Court, the report together with the objection shall after notice to the Standing Counsel be laid before the Court for orders.

7. Defective application or memorandum of appeal or objection.— If the Bench before which a motion is made for the admission of an application or a memorandum of appeal or objections finds that the application or the memorandum of appeal or objections as the case may be or the affidavit or other paper accompanying it, is not in order, or that such applica-

tion or memorandum of appeal or objections is not accompanied by the necessary papers, the Bench may either return it or may, subject to the provisions of these Rules or any other law, receive it, granting time for the removal of the defect. A motion for its admission may be made again after the removal of such defect :

Provided that nothing contained in this Rule shall have the effect of extending the period of limitation.

8. Effect of non-removal of defect.—Every defective application or memorandum of appeal or objections received under the last preceding Rule shall be listed before the Court for order, immediately after the defect has been removed, and where the defect has not been removed within the time allowed by the Court, immediately after the expiry of such time. In the latter event it shall be reject unless the Court on a written application for sufficient cause shown decides to grant further time.

9. Hearing under Order XLI, Rule 11 of the Code.—If the Bench before which a motion is made for the admission of an application or memorandum of appeal or objections finds that it is accompanied by the necessary papers, if any, and is otherwise in order and has been presented within time, it shall -

(a) in the case of a First Appeal (other than Execution First Appeal) or a memorandum of objections make on order admitting it and directing notice to be issued;
(b) in the case of any appeal admit it and after admitting it -
  (i) if it deems fit, hear it the same day under Rule 11 of Order XLI of the Code and if it is not dismissed under that rule, direct that notice be issued; or
  (ii) direct that the appeal be put up for hearing under Rule 11 of Order XLI of the Code on a future date;
(c) in the case of an application, pass such order as may be considered proper

Provided that nothing contained in this rule shall-
  (i) preclude such Bench from hearing any First Appeal, if consented to by the appellant, under Rule 11 of Order XLI of the Code the same day or directing that it be put up for hearing under that rule on some future date; or
  (ii) require such Bench to direct notice of an application or memorandum of objections to be issued where notice of such application or memorandum of objections has already been served on the other party or his Advocate.

10. Application for extension of time.—If the Bench finds that a memorandum of appeal [or objection or an application for revision] presented beyond time is otherwise in order and is accompanied by the necessary papers, if any, as well as application for extension of time supported by an affidavit, it shall take such application into consideration. If the application is rejected the memorandum [1][or an application for revision] shall also be rejected, but, it notice of application is directed to be issued the memorandum shall be put up for orders along with the application for extension of time in due course.

11. When memorandum of appeal may be presented to the Registrar.—[(1) On any working day on which Judges are not sitting a memorandum of appeal or objections or an application for revision or review may be presented before the Registrar during Court hours. On the last day of limitation the Registrar may receive a memorandum of appeal or objections or an application for revision or review or view even after Court hours where the appellant or applicant was unable to present it in Court :

Provided that the Registrar may not receive memorandum or application if it is not in order.

(2) The Registrar shall direct that the memorandum of appeal or objections or the application for review received under sub-rule (1) be put up for order on the next working day before the Court or before himself if he be authorised to deal with it.]

12. Presentation of appeals on the re-opening day after Vacation.—(1) Notwithstanding anything contained in this Chapter every memorandum of appeal or objections under Rule 22 or 26 of Order XLI of the Code [2][or an application for revision] may be presented before the Registrar and not in Court on the day on which the Court reopens after the vacation or on any other day if so directed by the Chief Justice. [3][The office shall thereupon submit a report as provided in Rule 3 as early as possible and on receipt of such report the Registrar shall direct that all]memoranda of appeal or objections [or applications for revision] which are not reported to be defective in any way shall be registered and numbered.

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[1] Inserted by noti. No. 8/VIII-C-90, dt. 11.01.1965, w.e.f. 18.09.1965

[2] Substitution vide noti. No. 434/VIII-C-171, dt. 29.10.1964, w.e.f. 16.12.1967

[3] Substitution vide noti. No. 434/VIII-C-171, dt. 29.10.1964, w.e.f. 16.12.1967

In the case of appeals and objections mentioned in clause (a) of Rule 9 after they have been registered and numbered, he shall direct notice to be issued except that no notice shall be necessary in the case of a cross-objection a copy whereof has already been served on the appellant or his Advocate.

In the case of other appeals after they have been registered and numbered he shall order that they be put up for hearing under Rule 11 of Order XLI of the Code. They shall thereafter be listed as early as may be before the Court for such hearing.

[In the case of applications for revision after they have been registered and numbered he shall order that they be put up as early as may be before the Court for orders.]

(2) If it is desired that a copy of any judgment or formal order required to be filed along with a memorandum of appeal presented under this Rule be dispensed with, a note to that effect shall be made on the memorandum. If no such note is made, a subsequent request for that purpose shall not be entertained. Where such note has been made the Registrar shall pass suitable orders.

If such copy is not dispensed with a period between the day on which the appeal was presented and the day on which the order is made shall not be excluded in computing the period of limitation for the appeal, but if the copy is dispensed with the appeal shall be deemed to have been duly presented on the day on which it was filed.

13. Defective memorandum of appeals or objections filed under Rule 12.—(1) If any defect in the memorandum of appeal or objection or an application for revision is pointed out in the office report, the Deputy Registrar shall immediately cause a notice of the defect to be served on the Advocate of the appellant or objector, or applicant as the case may be, requiring him to remove the defect or to file an objection within seven days of receipt of notice.

(2) The objection, if any, filed under sub-rule (1) shall, along with the report, be listed immediately for orders before the Registrar. If the Registrarallows the objection, he shall proceed to deal with such appeal or ob-

jection or application as if it had been reported to be in order, and if he rejects it, the defect shall be removed within seven days from the day of the rejection.

(3) If the defect is not removed within the time specified in sub-rule 1 & 2 or such further time as may be followed by the Registrar memorandum or application shall be listed for rejection before the Court and shall be rejected unless the Court for a sufficient clause supported by an affidavit grants further time for its removal. On expiry of the further time without the defect removed, the Court shall reject the memorandum :

Provided that no order passed under the provisions of this rule shall be deemed to extend the period of limitation.

CHAPTER XII

Service of Notice and Summoning of Record

1. Issue of notice and requisition for record.—Where an order has been made directing notice of an appeal, revision or reference to issue the office shall take immediate steps to cause notice thereof to be served on such persons as are indicated in Rule 9 and shall also give notice thereof to the Court from whose decree or order the appeal or revision has been presented or by which the reference has been made. The office shall, if not directed otherwise, also send a requisition to such Court asking it to transmit within ten days of the receipt of such requisition all material papers in the case or, if so directed, a part thereof, unless such record has already been received :

[1][Provided that in second appeal [2][an appeal from an order or revision] papers need not be summoned unless directed otherwise or until the case is likely to be listed before the Court for hearing:]

[3][Provided further that in an appeal from order or revision directed against an interlocutory order, the record shall not be summoned unless the Court directs otherwise. In such cases, the parties may file an affidavit annexing to it copies of documents and/or evidence on which they wish to rely at the hearing.]

A notice of the receipt of the record in every case, except a First Appeal to which Rule 7, Chapter XIII of these rules applies, shall be exhibited on the notice board as soon after its receipt as possible :

[4][Provided further that in case any *ad interim* stay order has been passed by the Court on an application such stay order shall be attached with the notice to the opposite party.]

2. When record not to be requisitioned at once.—When a record or a portion thereof is required from a subordinate Court in appeal or revision from an interlocutory order while proceedings in the case are pending in

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[1] Inserted vide noti. No. 38/VIII-C-163, dt. 28.02.1966, w.e.f. 17.06.1967

[2] Inserted vide noti. No. 719/VIII-C-163, dt. 08.10.1975, w.e.f. 03.01.1976

[3] Inserted vide noti. No. 218/VIII-C-163, dt. 09.03.1975, w.e.f. 13.06.1979

[4] Inserted vide noti. No. 889/VIII-C-31, dt.18.09.1974, w.e.f. 09.11.1974

the Court, it shall not be sent for at once and only information of the fact that all material papers in the case would be sent for when actually required shall be sent, and that Court shall submit the papers immediately on receipt of intimation that the appeal or revision is ready for hearing :

Provided that the papers shall not be summoned unless specially directed by the Court :

Provided further that when a record or a portion thereof has been summoned at the special request of a party or otherwise during the pendency of such appeal or revision for disposing of any interlocutory matter, it shall be sent back to the Court concerned as soon as possible and recalled only when the appeal or revision is ready for hearing.

A case shall not ordinarily be listed for hearing before the expiry of two weeks after the receipt of the record under this or the next preceding Rule.

3. No notice to issue unless requisite process-fee or cost is paid and notices supplied.—Notwithstanding anything contained in the foregoing Rules no notice shall be issued in a case in which process fee or cost of issuing notice is livable, unless the requisite process-fee or cost has been paid and notice in duplicate in the prescribed form, duly filled in, have been supplied for service, within [ten days] from the date on which the order for the issue of notice is made, or unless such fee or cost has been paid and such notices have been supplied under the next following Rule and the Court has condoned the delay.

4. Effect of non-payment of process-fee or cost or supply of notices within time.—If the requisite process-fee or cost of issuing notice is not paid or the requisite notices are not supplied within the time prescribed in Rule 3 the case shall be listed for dismissal and shall be dismissed as against the persons who have not been served on account of the default unless on the case being called an application signed by the party or his Advocate or brief-holder together with the requisite process fee cost or notices, as the case may be, is presented to the Court or an application similarly singed discharging from the case the persons not served on account of the said default or withdrawing it as against them and the Court deems fit to grant it:

[1][Provided that in such cases in which the Court has granted interim stay

[1] Sub. Vide noti. No. 10/VIII-v-36, dt. 28.01.1958, w.e.f. 08.03.1958

or injunction and the applicant fails to take necessary steps for service of notice, the office shall list the stay or injunction matter along with the default report before the Court immediately on expiry of ten days from the last date by which such steps ought to have been taken by the party concerned:]

[1][Provided further that the power to condone the delay in supplying the requisite process-fee or the notices etc. or to grant extension of time be delegated by the Chief Justice to the Registrar/Registrar/Joint Registrar. Where, in the opinion of the Registrar/Registrar/Joint Registrar, no case has been made out for condoning the delay, he shall direct the case to be listed for orders before the court.]

5. No party entitled to summon record without payment of requisite cost.—Except as provided in Rules 1 and 2 no record shall be summoned from another Court at the instance of a party unless the cost of summoning such record, if any, has been previously paid by such party.

6. Objection as to the amount of process-fee etc. to be decided by the Registrar.—Where objection is taken as to the correctness of the amount or process-fee or cost of issuing notice or summoning a record demanded by the office, the Advocate concerned or his clerk shall immediately bring the matter to the notice of the Registrar who shall decide such objection forthwith.

7. Contents of notice.—The notice of an interlocutory application or an application for review shall be to appear and show cause why the application be not granted and the notice of an appeal, reference or other application shall be to appear and answer such appeal, reference or application. The date for appearance shall be fixed with due regard to the current business of the Court, the place of residence of the person to be served, the time required for service and the time necessary for entering appearance after service of notice has been effected.

8. Particulars to be noted in the notice by party.—All the required particulars except the date fixed for appearance and the date of issue of notice shall be legibly entered in every notice by the party concerned before it is supplied to the office. Where there is a registered address such address alone shall be entered followed by the letters 'R.A.' in red ink or red chalk. Where no such address exists, the fact shall be clearly indicated in the notice.

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[1] Sub. Vide noti. No. 272/viii-c-2, dt. 06.03.1986, w.e.f. 03.05.1986

9. Persons to whom notice shall go.—Unless otherwise ordered [by the Court or the Registrar-]

(a) notice of an appeal shall be issued to all respondents and proposed respondents;
(b) notice of an application in revision shall be issued to all opposite parties or proposed opposite parties;
(c) notice of a reference shall be issued to all parties to the case;
(d) notice of an interlocutory application shall be issued to all opposite parties, provided that no notice of such application shall be issued to a person who has not filed a registered address and who is not represented in this Court by an Advocate;
(e) notice of an application for appointment of a guardian shall also be issued to-
(i) the proposed guardian,
(ii) the minor, if he is not less than ten years of age, and
(iii) the natural guardian of the minor;
(f) notice of an application for the removal of a guardian shall also be issued to-
(i) the guardian sought to be removed,
(ii) the proposed guardian, and
(iii) the minor, if he is not less than ten years of age; and
[1][(iv) the natural guardian of the minor, if any;]
(g) notice of an application for the transfer of a case shall be issued to all parties to the proceeding sought to be transferred, other than the applicant;
(h) no notice of any proceeding relating to a Supreme Court appeal shall be issued to any person who is not proposed to be made a respondent to such appeal;
(i) no notice of an application for stay of execution shall be issued to any judgment-debtor; and
(j) no notice of an application for injunction shall be issued to any person other than the person sought to be restrained.

10. Service of notice.—The provisions of Order V of the Code shall apply to the service of notice in all proceedings in this Court :

Provided that-

(a) where a party is represented by an Advocate notice of any pro-

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[1] Subs. Vide noti. No. 680/VIII-C-1, dt. 26.11.1980, w.e.f. 11.04.1981

ceeding in the case shall unless order otherwise be served on such Advocate;

(b) notice to a person residing in a Presidency town or notice of an interlocutory application may be sent by registered post; and

(c) where the Registrar or the Court directs that a notice be served in a particular manner it shall be served in such manner.

11. Application for summoning record, register or document.— Any party desiring to summon a record, register or document from a Court or office shall make an application to the Registrar for that purpose. Such application shall-

(a) be signed by the party or his Advocate;

(b) be accompanied by a statement signed by the Advocate stating;

(i) that such record, register or document was before the lower Court and that in his opinion the summoning thereof is necessary for supporting or opposing the case or other proceeding in which the application is made, or

(ii) that the record, register or document was not before the lower Court and giving reasons why it is necessary to summon it; and

(c) contain all such particulars as may be necessary to enable such record, register or document to be summoned, including-

(i) the name of the Court or the office from where the record, register, document is to be summoned,

(ii) the description of such record, register or document,

(iii) in the case of a register or document, the language in which such register or document is written and the date and the year, if any, which it bears.

(iv) in the case of a register or document, forming part of any record, the date on which such register or document was filed and description of such record including the date of decision, if any; and

(v) where the record desired to be summoned is the record of a decided case, the date when the case was decided;

Provided that the Registrar, if otherwise satisfied that the summoning of record, register or document is necessary, may dispense with the statement mentioned in Clause (b) or, if not satisfied by such, statement that a record, register or document is relevant or material, may before summoning it, require an affidavit stating clearly how it is relevant or material : and Provided further that the Court may at any stage of the proceeding, if satisfied that the summoning of a record, register or document is necessary, dispense with such

application or statement.

12. Deposit of cost for summoning record, register or document.— No requisition for a record, register or document ordered to be summoned at the expense, of a party shall be issued by the office unless the cost of summoning it and, if the record ordered to be summoned includes registers or account books, an equivalent additional sum in respect of each such register or account-book, is deposited as cost with the Cashier. If the party at whose expense a record has been ordered to be summoned, deposits only the cost of summoning the record and does not specify in his application the registers or the account-books to be summoned, only the record without such registers and account-books shall be sent for.

[1][CHAPTER XIII]

Paper Book in First Appeal

1. Definitions.—In this Chapter, unless the context otherwise requires-

(a) "Necessary paper" means papers mentioned in Clauses (a) to (g) or Rule 2;
(b) "First appeal" does not include an Execution First Appeal.

2. Papers to be included in Paper Book.—The paper book in a First appeal shall, unless otherwise directed by the Chief Justice, be either typewritten or cyclostyled on one side of stout paper with double spacing and consist of a fly-leaf, an index and copies, transliterations or translation of the following papers, namely-

(a) Plaint;
(b) Written statement;
(c) Further pleadings, if any;
(d) Statements of parties or their pleaders recorded under Rules 1 and 2 of Order X of the Code.
(e) Judgment under appeal;
(f) Decree under appeal;
(g) Memorandum of appeal;
(h) Such evidence, oral or documentary, or other papers as the appellant may wish to refer to;
(i) Memorandum of cross-objection, if any, and
(j) Such other evidence, oral or documentary, or other papers as the respondent may wish to refer to :

Provided that papers in Hindi written in Devanagari script shall not be translated :

Provided further that documents in Urdu shall be transliterated in Devanagari script.

3. Paper Book to be prepared out of Court.—Paper book in a First appeal shall be prepared out of Court by the appellant and respondent in accordance with these rules except that documents which are in Hindi or Urdu need not be translated. Documents in Urdu shall be transliterated in Devanagari script. The correctness of the translation and typing of such paper book shall be certified by the Advocate of the party preparing the paper book. The appellant, unless otherwise ordered by the Court, within six months from the date when a notice is exhibited by the High Court of

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[1] Substituted vide noti. No. 661/VIII-V-43, dt. 21.11.1980, w.e.f. 07.02.1981

the receipt of record under Rule 5 and the respondent, within three months from the date when the appellant has supplied the copies of the paper book to the Court, shall supply to the Court as many copies of the paper book as there may be parties to be served together with six extra copies for the use of the Court :

Provided that if the paper book is not supplied within time, the appeal or the cross-objection, as the case may be, shall be listed before the Judge or Judges for hearing such an appeal or cross-objection and the same may be dismissed unless, on an application in writing made in this behalf, the Court for sufficient cause shown grants further time.

The Registrar shall determine the cost of preparation of such paper books before the appeal comes up for hearing and the Court shall decide whether the whole or a portion of such cost shall be cost in the cause.

4. Duties of Appellant and Respondent.—(1) It shall be the duty of the appellant to include in the paper book all the evidence and papers; whether produced by him or by the respondent, to which he wishes to refer at the hearing either for the purpose of showing that the decision appealed against is erroneous or for the purpose of supporting his case.

(2) It shall be the duty of the respondent to include in his paper book all other evidence and papers, whether produced by him or by the appellant, to which he wishes to refer at the hearing for the purpose of supporting his case or cross-objections.

5. Notice of the Receipt after Record.—(1) The Deputy Registrar shall, as soon as possible after the record in a First appeal has been received, exhibit a notice of its receipt in the cause list :

Provided that in the case of an appeal which may be summarily determined under Rule 24 of Chapter VIII, no such notice shall be exhibited until the time for making an application or its summary disposal has expired, or, where an application for such summary disposal has been made, until such application has been rejected.

(2) The Deputy Registrar shall keep a record of the dates on which such notice was exhibited in the cause list.

(3) The Deputy Registrar shall also cause to be exhibited on the notice board for thirty consecutive dates commencing from the date when the notice was exhibited in the cause list, a notice stating that the record has been received.

6. Papers to be included in the Paper book to the respondent.—The

respondent shall include in his paper book the memorandum of cross-objection and all the evidence and papers upon which he relies in support of his cross-objection and which are not already included in the appeal, within 30 days of admission of the cross-objection, and where an appeal has been dismissed, he shall include all such papers as are enumerated in Rule 2.

7. Additional Paper Book.—Where during the hearing of the appeal the Court considers that the parties should include in their paper book any relevant documentary, oral or additional evidence, it may direct the appellant or the respondent, as the case may be, to file the additional paper book containing such documents.

8. General instructions for preparation of Paper Book.—The party shall be guided by the following instructions namely -

(a) All evidence and documents not relevant to the subject-matter of the appeal and documents not proved or not forming part of record, shall be excluded and every effort should be made to reduce the bulk of the paper book.
(b) Duplication of documents and unnecessary repetition of headings and other formal parts of documents should be avoided.
(c) Long series of documents, such as accounts rent rolls, inventories etc., should not be typed in full unless absolutely necessary, only short extracts or specimens only may be included.
(d) If more appeals than one have been preferred from the same decree, the same evidence or document shall not be included in more than one paper book.
(e) Where there has been a previous appeal to this Court arising out of the same suit, and a paper book has been filed, all papers included in such paper book shall be excluded from translation and typing in the subsequent appeal provided that sufficient number of copies of the paper book of the previous appeal is available for the use of the Judges and the parties.
(f) The party shall at the top of the paper book describe the title of the appeal giving its serial No. name of the parties, nature of suit, name of the Court with district and the date of the decree appealed against.

9. Contents of Paper Book.—The papers in the paper books shall ordinarily be arranged in the following order :

(a) Title cover as nearly as possible as mentioned below-

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In the High Court of Judicature at Allahabad

Civil Side

On Appeal from the Court of _____

District _____

F. A. No. of 19

Between

..... Plaintiff/Defendant/Appellant.

Versus

..... Plaintiff/Defendant/Respondent.

(Complete list of parties to be given on the next page)

Counsel for the Appellant .....

Counsel for the Respondent .....

(i) Number of original suit/suits

(ii) Date of institution

(iii) Nature of suit

(iv) Date of decision

(v) Nature of decree passed

(vi) Date of filing the appeal

(vii) Date of cross objection, if any

(b) Complete list of parties

(c) Index containing serial no., description of documents with date and page number

(d) Plaint

(e) Written statement/statements

(f) Further pleadings, if any

(g) Statement of parties or their pleaders recorded under Rules 1 and 2 of Order X, C.P.C.

(h) Exhibited documentary evidence of the plaintiff on which the ap-

pellant or respondent wishes to rely

(i) Exhibited documentary evidence of the defendant on which the appellant or the respondent wishes to rely

(j) Statement of witnesses produced on behalf of the plaintiff

(k) Statements of witnesses produced on behalf of the defendants

(l) Judgment

(m) Decree

(n) Any relevant order sheet/sheets

(o) Miscellaneous matters such as applications moved and orders passed thereon which may be relevant.

10. Paper Book to be printed by order of Chief Justice.—The Chief Justice shall, from time to time, according to the circumstances of a particular case or class of cases may direct that the paper book shall be printed and the parties shall, in such cases or class of cases arrange to get the paper book printed out of the Court and the rules framed herein before shall be applicable for such paper books.

CHAPTER XIV

Paper-Book in Cases other than First Appeals

1. Paper-book to be prepared in every case.—A paper-book shall be prepared in every case for the use of the Judge of Judges hearing it except in cases coming up for hearing under Rule 11 of Order, XLI of the Code or for summary hearing under [1][Rule 24 of Chapter VIII] or in the case of an application which is not required under these rules to be registered and numbered as a separate case or in any other case if so ordered.

Where an application which had not been registered and numbered as a separate case is listed for hearing before a Bench consisting of more than one Judge, copies of applications and affidavits supplied by the parties shall be stitched together for the use of the Judges constituting the Bench.

2. Contents of paper-book.—A paper-book shall consist of - (i) a fly-leaf, (ii) an index, and (iii) such copies as are indicated in the succeeding rules.

Ordinarily certified copies of judgments or orders filed by the appellant along with the memorandum of appeal shall be used for inclusion in the paper book. If any such copy is faint or not properly typed or not legibly written, it shall not be so included and a fresh neatly typed copy shall be prepared for inclusion in the paper-book.

3. Paper-book to be type-written.—Unless otherwise ordered, every copy included in a paper-book shall be typewritten and the paper-book shall be paged. The index shall indicate the pages of all the papers included in the paper-book together with their identification numbers as entered in the general index prepared in the Court below. Papers flagged and not included in the paper-book shall also be entered in the index along with their identification numbers.

4. Paper book in Execution First Appeal.—Copies to be included in the paper-book of an Execution First Appeal shall be of the following papers, namely-

(a) memorandum of appeal;

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[1] Substituted for "Rule 25 of Chapter Vii" vide noti. No. 680/VIII-C-1, dt. 26.11.1980, w.e.f. 11.04.1981

(b) memorandum of objections, if any, to the decree appealed from;
(c) judgment under appeal;
(d) application or objection disposed of by the judgment under appeal;
(e) reply to such application or objection; and
(f) reply to such reply, if any,

5. Paper-book in Execution Second Appeal.—Copies to be included in the paper-book of an Execution Second Appeal shall be of the following papers, namely-

(a) memorandum of appeal;
(b) memorandum of objections, if any, to the decree appealed from;
(c) judgment under appeal;
(d) judgment of the court of first instance;
(e) any order under Rule 25 or 28 of Order XLI of the Code, return to such order and in the case of an order under Rule 25, any memorandum of objections to such return, if any;
(f) application or objection disposed of by the judgment of the Court of first instance;
(g) reply to such application or objections; and
(h) reply to such reply, if any.

6. Paper-book in Second Appeal.—(1) Copies to be included in the paper-book of an appeal from an appellate decree in a case other than a case arising out of an execution matter shall be of the following papers, namely-

(a) memorandum of appeal;
(b) memorandum of objections, if any, to the decree appealed from;
(c) plaint;
(d) Written statement;
(e) further pleadings, if any;
(f) statements recorded under Rule 1 or 2 Order X of the Code, if any;
(g) judgment of the Court of first instance;
(h) judgment of the appellate Court; and
(i) any order under Rule 25 or 28 of Order XLI of the Code, return to such order, and in the case of an order under Rule 25, memorandum of objections to such return, if any.

(2) Written statement of defendants who are not parties to the appeal and long schedules annexed to the plaint where the grounds of appeal raise no questions relating to such schedules, shall not be included in the paper-book.

7. Paper-book in First Appeal from [an order of remand].—Copies to be included in the paper-book of a First Appeal from an order or remand shall be of the following papers, namely-

(a) memorandum of appeal;

(b) memorandum of objections to the order appealed from, if any;

(c) plaint;

(d) written statement;

(e) further pleadings, if any;

(f) judgment of the court of first instance; and

(g) judgment upon which the order under appeal is founded.

8. Paper-book in First Appeal from order.—Copies to be included in the paper-book of a First Appeal from an order,other than an order of remand, shall be of the following papers, namely-

(a) memorandum of appeal;

(b) memorandum of objections to the order appealed from, if any;

(c) application on which the order under appeal was passed;

(d) objection to such application, if any; and

(e) judgment upon which the order under appeal is founded.

9. Paper-book in Appeal from Appellate order.—Copies to be included in the paper-book of an appeal from an Appellate order where such appeal is allowed by any law, shall contain copies of the following papers namely-

(a) memorandum of appeal;

(b) memorandum of objections to the order appealed from, if any;

(c) application on which the order under appeal was passed;

(d) objection to such application, if any;

(e) judgment or order of the court of first instance;

(f) judgment upon which the order under appeal is founded.

10. Paper-book in Application for Revision.—Copies to be included in the paper-book of an Application for Revision shall be of the following

papers, namely-

(a) application for revision;

(b) judgment or order to which the application relates; and

(c) if such judgment or order is once passed in appeal, the judgment or order of the court of first instance.

11. Paper-book in application for Review.—Copies to be included in the paper-book of an application for Review shall be of the following papers, namely-

(a) application for review;

(b) affidavit filed in support of the application, if any;

(c) affidavit in reply, if any; and

(d) judgment or order to which the application relates.

12. Paper-book in certain Special Appeals.—[1][* * *].

13. Paper-book in [2][* * *] Special Appeal.—(1) Copies to be included in the paper-book of a Special Appeal from a judgment in an original trial or proceeding shall be of the following papers, namely-

(a) memorandum of appeal;

(b) judgment appealed from;

(c) pleadings and further pleadings, if any; and

(d) where the proceedings had originated on an application or petition, such application or petition and the objection thereto, if any.

(2) Such copies of evidence, oral or documentary, as may be supplied by the parties after having been certified as correct by their Advocates shall also be included in the paper-book.

14. Paper-book in cases not otherwise provided for.—The paper-book in cases not otherwise provided for in these Rules shall be prepared under the direction of the Registrar subject to such orders an may be

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[1] Deleted vide noti. No. 345/VIII/C-150, dt. 06.11.1963, w.e.f.05.12.1964 (C.S. 214)

[2] Deleted vide noti. No. 345/VIII/C-150, dt. 06.11.1963, w.e.f.05.12.1964 (C.S. 214)

passed from time to time by the Chief Justice [1][or any other Judge or a Bench nominated by the Chief Justice in respect to of any case or class of cases.]

15. When party to provide transliteration or translation of a document.—Where the question of construction of a document is desired to be raised by a party in an appeal from an appellate decree or order, the Advocate of the party concerned shall pro-vide a sufficient number of copies of such document or, if so required, of a transliteration or translation thereof to enable a copy to be placed on each copy of the paper-book. Such copies shall be supplied not less than one week before the hearing of the appeal.

16. Copies of oral or documentary evidence to be supplied by party.—(1) Any party desiring to refer to any paper or evidence, oral or documentary, where reference to such paper or evidence is permissible, shall supply a sufficient number of copies thereof or, if so required, of a transliteration or translation thereof, to enable a copy to be placed on each copy of the paper-book. Such copies shall be supplied not less than one week before the hearing of the case.

(2) No party shall be entitled to refer to any paper or evidence copies of which have not been supplied in accordance with sub-rule (1).

17. When a party may supply paper-book.—The Chief Justice [2][or any other Judge or a Bench nominated by the Chief Justice in respect of any case or class of cases] may permit a party to supply for the use of the Court and the other party copies of paper-book prepared in accordance with these Rules. In such case no paper-book shall be prepared by the office.

18. Cost of preparing paper-book not to be charged from parties.—No charge shall be made for the preparation of a paper-book under this Chapter by any party to a proceeding. Where copies of any document, paper or evidence or its transliteration or translation are supplied under this Chapter by any party to a proceeding, the cost thereof shall be borne by such party whatever may be the result of the case.

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[1] Sub. Vide noti. No. 20/VIIII-C-150, dated 18.08.1977, w.e.f. 27.08.1977

[2] Sub. Vide noti. No. 20/VIIII-C-150, dated 18.08.1977, w.e.f. 27.08.1977

19. Supply of copy of paper-book.—A party my obtain a copy of the paper-book [except of a Special Appeal] prepared by the office under this chapter on payment of such cost as may be fixed by the Registrar. No such copy shall be supplied if the application is not made or the cost is not paid, sufficiently before the date when the case is likely to come up for hearing.

[1][CHAPTER XIV-A]

Special Provisions Relating to Proceedings in Appeals from Orders of Election Tribunal

1. Preliminary.—The provisions of this Chapter shall govern appeals under Section 116-A of the Representation of the People Act, 1951.

2. Accompaniment of a memorandum of appeal.—Every memorandum of appeal shall be accompanied by-

(a) a certified copy of the order against which the appeal is directed;
(b) a list setting out the documents on which the appellant relies and which he would include in the paper-book, together with as many typed copies of the list as there may be parties to be served;
(c) as many typed copies of the memorandum of appeal as there may be parties to be served, together with two extra copies;
(d) an affidavit setting out the present address of the respondent where he can be served;
(e) tender deposit receipt for Rs. 25 issued by the Cashier of the Court, towards cost of publication of the notice;
(f) postal envelopes bearing requisite postage stamps to enable service to be effected on the respondent or respondents by registered post acknowledgement due; and
(g) the Government Treasury receipt as contemplated by Section 119-A of the Act.

3. Service by post.—Where the postal acknowledgement has been duly signed or where the envelope has been returned with the endorsement "Refused" the respondent shall be deemed to have been served.

4. Publication of notice in newspaper in addition to postal service.—In addition to service through post, notice of the appeal shall simultaneously be published in a newspaper selected by the Registrar.

5. Deposit of excess amount to cover cost of publication of notice and its refund.—Where the cost of publication in the newspaper exceeds Rs. 25, the Registrar shall call upon the appellant to deposit the excess amount in Court within a time to be fixed by him. On failure of the appellant to

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[1] Chapter XIV-A consisting of rules 1 to 14 added by noti. 47/VIII-C-162, dt. 18.05.1957, w.e.f. 01.06.1957

deposit such costs, the appeal shall be laid before the Court for dismissal. In case the cost of publication is less than Rs. 25, the appellant will be entitled to a refund of the amount paid by him in excess.

6. Supply of paper-book by appellant.—The appellant shall, within fifteen days from the date of filing the appeal, supply to the Court as many typed copies of the paper-book as there may be parties to be served together with two extra copies for the use of the Court :

Provided that the Registrar may, in special circumstances, extend the period of supplying the paper-book up to a fortnight on a written application made to him in this behalf.

7. Contents of paper-book.—The paper-book shall consist of a flyleaf and index and copies and transliterations or translations of the following papers, namely :

(a) election petition;
(b) written statement;
(c) further pleadings, if any;
(d) statements of parties or their pleaders recorded under Rules 1 and 2 of Order X of the Code;
(e) judgment under appeal;
(f) memorandum of appeal; and
(g) such evidence, oral or documentary, or other papers, except ballot papers, as the appellant may wish to refer to.

8. Supplementary paper-book by respondents.—On the date fixed for appearance of the respondent, the respondent shall be supplied with a copy of the paper-book filed by the appellant and shall be required to intimate in writing on the next working day if he wants to file a supplementary paper-book containing such other evidence, oral or documentary, or other papers as he may wish to refer to. In case he gives this intimation, he shall file three typed copies of the supplementary paper-book within fourteen days of the intimation referred to above.

9. Certificate of correctness of paper-book.—The correctness of the translation and typing of the paper-book shall be certified by the party concerned or his Advocate.

10. Taxation of cost of paper-book.—The Registrar shall determine the cost of preparation of a paper-book before the appeal comes up for hearing and the Court shall decide whether the whole or a portion, of the costs shall be taxed.

11. Appellant to pay fee for summoning records.—The fee for requisition or record shall be paid by the appellant at the time of the presentation of the appeal. The Registrar shall send for the record at once after the appeal has been filed.

12. Form of notice for appearance.—Notice to appear issued to respondent shall be in Form No. 18-A.

13. Registrar power to direct change in preparation of paper-book.—The Registrar may, *suomotu* or on a request made in this behalf, direct any change in the preparation of the paper-book.

14. Application of certain provisions of Rules of Court to appeals under these rules.—Subject to the provisions of this Chapter, rules relating to First Appeal contained in Chapter IX, X, XI, XII and XIII will apply also to appeals under this Chapter.

[1]**[15. Transmission of treasury receipt to the Election Commission.—**The treasury receipt of rupees five hundred referred to in Rule 2 (g) of these rules shall, as soon as the appeal is filed, be transmitted by the Court to the Secretary to the Election Commission of India for payment of costs of appeal or refund, as the case may be, in accordance with the Court's orders.]

[2]**[16. Application of these Rules to similar proceedings under the U.P. Nagar MahapalikaAdhiniyam and U.P. Zila Parishad (Election of Adhyaksha, Upadhyksha and Settlement of Election Disputes) Rules.—**The provisions of this Chapter shall apply *mutatis mutandis* to appeals under Section 74 of the U.P. Nagar MahapalikaAdhiniyam, 1959 and under Rule 49 of the U.P. Zila Parishad (Election of Adhyaksha, Upadhyaksha and Settlement of Election Deputes) Rules, 1963, except that Rule 15 shall not apply to such appeals.]

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[1] Added by noti. No. 271, dt.08.11.1968, w.e.f. 07.02.1959

[2] For noti. Of rule 16, see UP Gazette, Part II, dt. 25.02.1976

CHAPTER XV

Original and Extraordinary Original Civil Jurisdiction

1. Institution of suit.—(1) Every suit shall be instituted by presentation to the Judge appointed to receive applications, of a plaint bearing an office report as to sufficiency of court-fee, limitation, jurisdiction and any other matter upon which a report may be necessary.

(2) The provisions of Rule 11 of Chapter XI relating to the presentation of a memorandum of appeal or objection before the Registrar on any working day on which Judges are not sitting or on the last day of limitation shall, with necessary modifications and adaptations, also apply to plaints presented on such day.

2. Constitution of Bench.—When a suit has been duly instituted it shall be registered and numbered and laid before the Chief Justice for the constitution of a Bench to hear the case.

3. Supply of process fees, etc.—As soon as the Bench has been constituted the case shall be put up before it and it may direct that notice be issued to the defendant to appear and answer the claim.

Process fees for the issue of notices, summonses or other processes, cost of advertisement, if any and copies of plaints, petitions, affidavits, etc. for service on the defendant if not supplied at the time of presentation of the plaint shall be supplied by the plaintiff within ten days of the date of the order directing the issue of notice to the defendant. If this is not done, the plaint shall be listed before the Court for rejection and shall be rejected unless the Court for sufficient cause shown allows further time for supplying such process fees, cost of advertisement or copies, as the case may be.

4. Notice.—On the plaintiff complying with the requirements of the next preceding Rule, notice shall be issued to the defendant to appear and answer the claim on a date to be specified therein. Such notice shall also

direct that if he wishes to put up a defence he shall file his written statement together with a list of all documents in his possession or power upon which he intends to rely in support of his case at least ten days before the date fixed and that in case of delay he may be liable to pay the cost of any adjournment that be necessitated thereby.

5. Appearance by defendant.—The defendant shall enter appearance by filing with the Registrar a memorandum signed by him or his Advocate giving an address at which service of notice, summon or other process may be made upon him. Such address shall be within the territorial limits of the jurisdiction of the Court.

In default of appearance being entered before the date mentioned in the notice, the suit may be heard and determined in his absence.

6. Form of pleadings and applications.—All pleadings and applications shall be drawn up in manner provided in sub-rules (1) and (4) of Rule 1 and Rules 4, 5 and 6 of Chapter IX with such modifications and adaptations as circumstances may require. Rule 11 (1) of the same Chapter shall, with necessary modifications and adaptations as circumstances may require, also apply to such pleadings and applications.

Material corrections or alteration shall be authenticated by the initials of the person verifying the plaint or written statement or signing the application, as the case may be.

7. Rejection of defective plaint, etc.—If a plaint, written statement or application is not drawn up in accordance with these rules or if it is otherwise defective or not in order, it may be rejected where time has been allowed by the Court for the removal of any defect and such defect has not been removed within such time or such further time as the Court may allow.

8. Production of documents.—Subject to any orders that may be passed by the court, the parties or their Advocates shall on the date fixed for the defendant's appearance, produce all the documents in their possession on which they intend to rely.

The Registrar or any other officer authorised by the Court may record admissions or denials on such documents.

9. Filing of documents.—All documents filed in the case shall be accompanied by a list signed by the party filing them or his Advocate. On every such document the Registrar or the Bench Reader, as the case may be, shall note the date or presentation under his initials.

10. Issues.—It shall not be incumbent upon the Court to frame issues unless it considers that the decision of the case will be assisted thereby.

11. Absence of parties.—Where on any day to which the hearing of the suit is adjourned, the parties or any of them fail to appear, the Court may proceed to dispose of the suit in such manner as it thinks just.

12. Summoning of witnesses.—An application for the issue of summonses to witnesses may be made by a party to the suit, or by his Advocate. Summonses shall be on the printed form which shall be filled in by the applicant, the date of appearance and the date of the summons being left out. The date fixed for appearance shall be inserted by the office and the summons shall be dated and signed by an officer of the Court.

The Registrar may direct that in any particular case all the entries in the form be made by the office.

13. Allowance and diet money to witnesses.—(1) The rules contained in the Appendix to Chapter XVII for the payment of travelling allowance and diet money to witnesses in criminal proceedings shall, with such modifications and adaptations as may be found necessary, also apply to civil proceedings provided that, in any special case or in a case not specifically covered by these Rules, the court may allow such payment to be made to them as it may think fit.

(2) In the case of a person summoned to give evidence as an expert, the Court may allow such remuneration as it may consider reasonable for the time occupied in giving evidence or in performing any work of an expert character necessary for the case.

14. Deposit of travelling allowance and diet money.—A party applying for a summons shall, before the summons is granted and within a period to be fixed by the Registrar deposit with the cashier such amount as may appear to the Registrar to be sufficient to defray the reasonable travelling expenses and diet money for one day's appearance in Court of such witness. In the case of a person summoned to give evidence as an expert the Registrar may also require the party applying for summons, to deposit with the Cashier such further sum as may, in his view, be sufficient to enable payment to be made to such witness by way of remuneration under the next preceding rule.

In case of any disagreement or doubt as to the amount to be deposited under this rule, the matter be decided by the Registrar.

15. Issue of summons.—After the deposit required by Rule 14 has

been made, the Deputy Registrar shall cause a summons to be issued.

16. Tender of expenses with the summons.—Every person summoned to give evidence before the Court shall have tendered to him along with the summons a sum sufficient to cover his reasonable travelling expenses and diet money for one day's attendance in Court.

17. Witness residing outside the territorial jurisdiction of the Court.—No one residing without the local limits of the Court's ordinary civil jurisdiction shall be compelled to attend in person to give evidence.

18. Witness required to attend on a subsequent day.—(1) If the evidence of witness is not taken or completed on the first day on which he attends the Court in obedience to a summons, the party summoning him shall, before 4 p.m. on that day, deposit with the Cashier an amount sufficient to enable the witness to attend on the subsequent day and if on such subsequent day also his evidence is not taken or completed, a similar procedure shall be followed :

Provided that the party may, if it so desires, make payment to the witness direct in the presence of the Court or the Deputy Registrar and file the receipt in Court.

(2) If the expenses of a witness are not paid by the party him in accordance with sub-rule (1) the witness shall not be bound to remain in attendance on any subsequent day.

19. Payment to witness of money deposited with Cashier.—Where expenses have been deposited with the Cashier under the next preceding rule, they shall be paid to the witness on the next day.

20. Claim by witness.—Any claim made by a witness with respect to the expenses payable to him may be considered and decided by the Bench hearing the case or by an officer authorised by it.

21. Original proceedings.—The Rules contained in this Chapter shall, with such modifications and adaptations as may be necessary, also apply to other original proceedings instituted in the Court.

22. Extraordinary civil jurisdiction.—The Rule contained in this Chapter with respect to the trial of suits instituted in this Court shall, so far as may be also apply to-

(i) any suit removed from any Court subject to the superintendence of the court, to be tried and determined by it in the exercise of its extraordinary original civil jurisdiction; and

(ii) any suit or other original proceeding withdrawn from a subordinate Court under Art. 228 of the Constitution :

Provided that any such suit or proceeding shall unless otherwise ordered proceed from the stage at which it was before it was so removed or withdrawn.

23. Court's power to give directions in matters of practice and procedure.—The Court may in any suit or proceeding to which this Chapter applies, give such directions in matters of practice and procedure as it shall consider just and expedient.

[1][CHAPTER XV-A]

Special Provisions Relating to the Trial of Election Petitions

1. Scope.—The provisions of this Chapter shall govern the trial of election petition under the Representation of the People Act, 1951.

2. Definition.—In this Chapter unless the context otherwise requires-

(i) 'Act' means the Representation of the People Act, 1951;

(ii) 'Bench' means the Bench to which an election petition has been referred by the Chief Justice under sub-section (2) of Section 86 of the Act.

3. Presentation of election petition.—Every election petition shall be presented to the Registrar.

The petition shall bear an office report on Court-fee and no compliance, in addition to other matters, with Sections 81, 82, 83 and 117 of the Act.

The petitioner shall file with the petition a list of all documents whether in his possession or power or not, on which he relies as evidence in support of his claim.

4. Constitution of Bench.—An election petition duly presented shall be registered and numbered, and shall, after an additional office report regarding other election petitions, if any, in respect of the same election as are referred to in sub-section (3) of Section 86 of the Act and the Bench, if any, to which they have been referred, be laid forthwith before the Chief Justice for reference to a Bench.

5. Issue of notice to respondent.—The election petition shall be laid before the Bench so constituted without delay, and unless it is dismissed under sub-section (1) of Section 86 of the Act or for being otherwise defective, the Bench may direct issue of notice to the respondent to appear and answer the claim on a date to be specified therein. Such notice shall also direct that if he wishes to put up a defence he shall file his written statement together with a list of all documents, whether in his possession or power or not, upon which he intends to rely as evidence in support of his defence on or before the date fixed in the notice the election petition

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[1] Added by noti. No. 32/VII-V-162, dt. 07.03.1967, w.e.f. 11.03.1967

may be heard and determined in his absence. The notice shall be in Form No. 34-A.

6. Process fee and charges.—(a) Notice for the respondent shall issue by ordinary process and simultaneously by registered post.

(b) Notice of the election petition shall also be simultaneously published in a newspaper selected by the Registrar.

(c) Notices, process fee, charges and [a sum of Rs. 250] as an initial deposit on account of the cost of publication in a newspaper shall be supplied by the petitioner within seven days of the order directing notice to issue. In default, the election petition shall be laid before the Bench for orders. The Bench may reject the election petition unless for sufficient cause it grants further time.

(d) Where the cost of publication in a newspaper exceeds Rs. 50 the Registrar shall call upon the petitioner to deposit the excess amount in Court within the time to be fixed by him. On failure of the petitioner to deposit such costs, the petition shall be laid before the Bench for such orders as the Bench may think fit. In case the cost of publication is less than Rs. 50 the petitioner shall be entitled to a refund of the amount in excess.

7. Appearance by respondent.—The respondent shall enter appearance by filing with the Registrar a memorandum signed by him or his Advocate giving an a address at which service of notice, summon or other process may be made upon him.

8. Full description of parties etc.—All pleadings and applications shall be drawn up in the manner provided in Rules 1, 4, 5 and 6 of Chapter IX with such modifications and adaptations as circumstances may require.

Copies of the election petition, applications and other documents filed in Court shall be on durable paper and written, typewritten, lithographed or printed on one side of the paper only.

9. Summoning of witnesses and payment of expenses.—Rule 8 about production of documents and recording admissions or denials, Rule 9 regarding filing of documents and Rules 12 to 20 dealing with summoning of witnesses, payment of expenses of witnesses, etc., of Chapter XV shall also apply to proceedings under this Chapter.

10. Other applications under the Act.—An application of a candidate under sub-section (4) of Section 86 seeking to be joined as a respondent, notice of intention to prove recrimination under Section 97 of the Act

accompanied by the prescribed statement and particulars duly verified, an application for withdrawal of an election petition under Section 109 of the Act and an application for substitution under sub-section (3) of Section 112 or Section 116 of the Act together with an adequate number of copies for service shall be presented to the Registrar who shall lay it before the Bench along with an office report.

11. Affidavit.—An application shall ordinarily be accompanied by an affidavit. Subject to the proviso to sub-section (1) of Section 83 of the Act, the provisions of Chapter IV as to affidavits shall apply to proceedings under this Chapter.

12. Court's power to give directions in matters of practice and procedure.—The Bench may, consistently with the provisions of Section 87 of the Act, give such directions in matters of practice and procedure (including the recording of evidence) as it shall consider just and expedient.

13. Table of costs.—After an election petition has been decided a table of costs shall be prepared reproducing the order relating to payment of costs and provisions of Rules 6 to 11 of Chapter VII relating to the preparation of a decree shall apply with necessary modifications and adaptations.

CHAPTER XVI

Taxation of Advocates' Fees

1. Preliminary.—The Rules contained in this Chapter shall regulate the inclusion of Advocates' fees in the taxation of costs.

2. Suits, application for probate and letters of administration and appeals from original or appellate decrees.—(1) The fee to be allowed on taxation in a contested suit, or a contested application for probate or letters of administration, or an appeal, contested or uncontested, from an original or appellate decree in a suit shall, subject to minimum of Rs. [1][100] in a suit or an application for probate or letters of administration or a First Appeal and Rs. [50] in a Second Appeal, be an amount calculated on the value of the claim in accordance with the following scale, namely-

(i)	On the first Rs. 5,000	... ...	[2][10 per cent.]
(ii)	On the next Rs. 15,000	... ...	[3][3-¾ per cent.]
(iii)	On the next Rs. 30,000	... ...	[4][1-⅞ per cent.]
(iv)	On the remainder	... ...	[5][1-¼ per cent.]

(2) When any suit or application for probate or letters of administration is decided *ex parte*, on confession of judgment or on compromise, or withdrawn or dismissed for default, the amount of fee to be included in the taxation of costs shall be one-half of the amount calculated in accordance with the scale given in sub-given in sub-rule (1) subject to minimum of Rs. 100.

3. First appeal in which application for summary determination is made.—The fee to be allowed on taxation in a First Appeal on the dispos-

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[1] Subs. Vide noti. No. 680/VIII-C-1, dt. 26.11.1980, w.e.f.11.04.1981

[2] Subs. Vide noti. No. 680/VIII-C-1, dt. 26.11.1980, w.e.f.11.04.1981

[3] Subs. Vide noti. No. 680/VIII-C-1, dt. 26.11.1980, w.e.f.11.04.1981

[4] Subs. Vide noti. No. 680/VIII-C-1, dt. 26.11.1980, w.e.f.11.04.1981

[5] Subs. Vide noti. No. 680/VIII-C-1, dt. 26.11.1980, w.e.f.11.04.1981

al of an application for the summary determination of such appeal under [Rule 24 of Chapter VIII] shall be as follows :

(i) Where the application for the summary determination of an appeal is allowed and the appeal is dismissed, the fee shall be as in sub-rule (1) of Rule 2.

(ii) Where the application for the summary determination of an appeal is rejected, one-fourth of the amount of fee taxable under sub-rule (1) of Rule 2 shall, subject to a minimum of Rs. [70] be allowed to the appellant as against the party which made the application. Any order as to costs passed under this clause shall not affect the costs in the appeal.

4. Cases under Section 14 (2) of the Arbitration Act, 1940.—The fee to be allowed on taxation in a case under sub-section (2) of Section 14 of the Arbitration Act, 1940 shall, subject to a minimum of Rs. [1][70] be an amount calculated on the value of the claim in accordance with the following scale, namely-

(i)	On the first Rs. 5,000	... ...	[2][5 per cent.]
(ii)	On the next Rs. 15,000	... ...	[3][2-½ per cent.]
(iii)	On the next Rs. 30,000	... ...	[4][1-¼ per cent.]
(iv)	On the remainder	... ...	[5][⅝ per cent.]

5. Cases under Section 20 of the Arbitration Act, 1940.—The fee to be allowed on taxation in a case under Section 20 of the Arbitration Act, 1940, shall be such as the Court may direct.

6. Matrimonial cases.—In matrimonial suits and appeals arising therefrom the fee to be allowed on taxation shall, subject to such order as the

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[1] Subs. Vide noti. No. 653/VIII-C-17, dt. 12.09.1975, w.e.f.27.09.1975

[2] Sub. Vide. Noti no. 84//VIII-C-95, dt. 13.02.1977, w.e.f.16.04.1977

[3] Sub. Vide. Noti no. 84//VIII-C-95, dt. 13.02.1977, w.e.f.16.04.1977

[4] Sub. Vide. Noti no. 84//VIII-C-95, dt. 13.02.1977, w.e.f.16.04.1977

[5] Sub. Vide. Noti no. 84//VIII-C-95, dt. 13.02.1977, w.e.f.16.04.1977

Court may having regard to the difficulty and duration of the case allow, be as given below, namely-

(1)	In an undefended case	...	[200]
(2)	in a defended case-		
	(i) up to the end of the first day of hearing	...	[375]
	(ii) for each succeeding day or part of a day such part being of not less than one hour's duration	...	[200]

7. Cases under the [1][Income Tax Act, 1961].—(1) The amount of fee to be allowed to the Advocate for the Commissioner of Income-tax on taxation in a case under the [Income Tax Act, 1961], shall-

(i) in a case under Section 66 (1) or (2) of the [Income Tax Act, 1961], be such as may be fixed by the Court, not being less than Rs. [2][125] or more than Rs. [3][250];

(ii) [4][Deleted]

[5][(2) Where a higher fee is fixed by the Court under sub-rule (1) it shall be included in the taxation of costs, provided such Advocate files a certificate within one month from the date of the order passed by the Court or within such further time as the Court may on application made by him allow, that he has received the consent of the Government to the payment to him of such higher fee.]

[6][(3) The fee payable to the Advocate for the other party shall be such

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[1] Subs. Vide noti.no. 18/VIII-C-127, dt. 23.01.1970, w.e.f. 07.03.1970

[2] Subs. Vide noti.no. 84/VIII-C-95, dt. 13.02.1977, w.e.f. 16.04.1977

[3] Subs. Vide noti.no. 84/VIII-C-95, dt. 13.02.1977, w.e.f. 16.04.1977

[4] Omitted sub-rule (ii) and Rule 2 by noti. No. 18/VIII-C-127, dt. 23.01.1970, w.e.f. 07.03.1970

[5] Re-numbered as rule 2 by noti. No. 18/VIII-C-127, dt. 23.01.1970, w.e.f. 07.03.1970

[6] Re-numbered as rule 2 by noti. No. 18/VIII-C-127, dt. 23.01.1970, w.e.f. 07.03.1970

as may be fixed by the Court in each case and shall be included in the taxation of costs, provided a certificate as required by Rule 25 of this Chapter has been duly filed showing the payment to such Advocate of a fee not less in amount than the fee allowed by the Court. Where the fee so paid is less than the amount of fee allowed by the Court, such lesser fee alone shall be included in the taxation of costs.]

8. Certain miscellaneous cases.—In a miscellaneous case for the setting aside of an abatement or an *ex parte* decree or an order dismissing the case for default, a fee of Rs. [1][70] shall be allowed in the case of a First Appeal and Rs. [2][50] in any other case.

9. Application under Article 226 of the Constitution.—[3][Where the Court, while disposing of an application for a direction or order or writ under Act, 226 or Art. 227 of the Constitution or a Special Appeal arising therefrom, allows costs but does not specify the amount of Advocate's fee, the fee to be allowed on taxation shall be Rs. [4][125] both in the case of an application and in hecase of a special Appeal.]

10. Cases not specifically provided for.—In cases not specifically provided for in this Chapter including execution appeals,. appeals from orders, revision, applications under Chapter XXIII, references, cases under the [5][Companies Act, 1956], and testamentary and intestate cases other than applications for probate or letters of administration, the fee shall, if the claim is capable of valuation, be an amount calculated on the value of the claim in accordance with the following scale, namely-

(i)	On the first Rs. 5,000	...	...	[6][6-¼ per cent.]
(ii)	On the next Rs. 45,000	...	...	[7][1-¼ per cent.]

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[1] Subs. Vide noti.no. 84/VIII-C-95, dt. 13.02.1977, w.e.f. 16.04.1977

[2] Subs. Vide noti.no. 84/VIII-C-95, dt. 13.02.1977, w.e.f. 16.04.1977

[3] Subs. Vide noti. No. 104/VIII-C-2, dt. 14.04.1965, w.e.f.25.12.1965

[4] Subs. Vide noti.no. 84/VIII-C-95, dt. 13.02.1977, w.e.f. 16.04.1977

[5] Subs vide noti. No. 680/VIII-C-2, dt. 26.11.1980, w.e.f. 11.04.1981

[6] . Vide noti.no. 84/VIII-C-95, dt. 13.02.1977, w.e.f. 16.04.1977

[7] . Vide noti.no. 84/VIII-C-95, dt. 13.02.1977, w.e.f. 16.04.1977

(iii)	On the remainder	...	...	[1][⅝ per cent.]

The minimum taxable fee in such cases shall be [Rs. 50] and the maximum unless otherwise ordered by the Court Rs. [1200].

11. Additional fees.—The following fees shall, [2][if the Bench disposing of the matter allows costs], be allowed on taxation in addition to those allowable under the preceding rules, namely-

(i) For each application numbered as a miscellaneous application-				
				Rs.
(a)	Contested	...	...	[3][50]
(b)	Uncontested	...	...	[4][32]

Provided that the Court may in special cases allow a larger or a smaller sum or disallow any fee.

		Rs.
(ii)	For each affidavit filed in support of an application or an answer thereto or a reply to such answer, if any	[5][20]

Provided that the Court may allow a larger or a smaller sum having regard to the circumstances of the case or wholly disallow any fee if the affidavit or the application does not contain proper particulars and material averments or is prolix or contains unnecessary or irrelevant matter.

(iii) For settling of documents for translation and printing in First appeals-

[1] . Vide noti.no. 84/VIII-C-95, dt. 13.02.1977, w.e.f. 16.04.1977

[2] . Vide noti.no. 90/VIII-C-90, dt. 30.03.1956, w.e.f. 09.06.1956

[3] . Vide noti.no. 84/VIII-C-95, dt. 13.02.1977, w.e.f. 16.04.1977

[4] . Vide noti.no. 84/VIII-C-95, dt. 13.02.1977, w.e.f. 16.04.1977

[5] . Vide noti.no. 84/VIII-C-95, dt. 13.02.1977, w.e.f. 16.04.1977

			Rs.
(a)	if the number of documents in the list does not exceed 16	...	[1][32]
(b)	If the number of documents in the list exceeds 16 but does not exceed 48	...	[2][60]
(c)	For each additional document beyond 48	...	[3][45P.]

Provided that the whole or any part of such fee or the whole or any part of the costs of the appeal may be disallowed by the Bench hearing the appeal if in the selection of documents for inclusion in the list unnecessary documents or group of documents of the same tenor have been included and material documents omitted.

12. Cross objection.—Any cross-objection filed under Rule 22 of Order XLI of the Code shall for the purposes of this Chapter be treated as a separate appeal.

13. Value of claim.—The value of the claim in Rules 2, 3, 4 and 10 shall be the value stated in the plaint in the case of a suit, the value as stated in the memorandum of appeal in the case of an appeal, the value stated as that of the property in respect of which the application is made in the case of an application for probate or letters of administration, and in other cases the value as stated in the application, provided the case is one in which the relief claimed is capable of valuation.

Fractions of a rupee shall be omitted from the value of the claim in calculating fees. The value shall be the value for the purpose of jurisdiction.

14. Cases in which relief is incapable of valuation.—In a case referred to in the next preceding Rule in which the claim is incapable of valuation in the manner provided in that Rule, the Court may allow such fee as it may consider reasonable.

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[1] . Vide noti.no. 84/VIII-C-95, dt. 13.02.1977, w.e.f. 16.04.1977

[2] Vide noti.no. 680/VIII-C-2, dt. 26.11.1980, w.e.f. 11.04.1981

[3] . Vide noti.no. 680/VIII-C-2, dt. 26.11.1980, w.e.f. 11.04.1981

15. Court may allow higher or lower fee or disallow any fee.— Notwithstanding anything contained in Rules 2, 3, 4, 6, 7, 8, 10 and 12 the Court may allow a higher fee if in its opinion the fee allowable under the Rule, is having regard to the circumstances of the case, inadequate or may for sufficient reason allow a lower fee or order that no fee be entered in the table of costs of a party.

16. Several defendants succeeding upon a joint or common defence.—Where several defendants whether arrayed as appellant or respondents in this Court having a joint or common interest, succeed upon a joint defence to the suit or upon separate defences which are substantially the same, the total sum to be entered in their joint table or in their respective tables of costs shall not exceed that allowable under the Rule applicable to the class to which the case belongs, unless the Bench hearing the case orders otherwise.

If only one fee is allowed, the Court may indicate to which of the defendants it shall be paid or may apportion it amongst them in such manner as it may think fit. If the Court makes no such order, the Taxing Officer shall apportion it equally among such defendants as may have appeared by an Advocate at the hearing of the case.

This rule shall with necessary modifications also apply to original suits in this Court.

17. Several defendants succeeding upon separate and distinct defences.—Where several defendants whether arrayed as appellants or respondents in this Court having separate interests have set up separate and district defences a separate fee as allowable under the Rule applicable to the class to which the case belongs may, if the Court, so orders, be allowed in respect of the separate interest of each such defendant as may have appeared at the hearing by a separate Advocate and succeeded upon his separate and distinct defence.

This Rule shall, with necessary modifications, also apply to original suits in this Court.

18. Effect of engaging Advocate having dealings with touts.— Notwithstanding anything contained in this Chapter, no sum on account of Advocate's fee shall be included in the table of costs of a party who has engaged for the purposes of the case, any Advocate-

(a) who is known or reputed to have any dealing, communication or correspondence direct or indirect, with a person who has been proclaimed as a tout or with any person who frequents the precincts of any Court, of-

fice, railway station, landing stage or lodging place or other places of public resort, as a tout, or

(b) who employs any such person in any capacity whatsoever.

19. Effect of falsely valuing claim.—Notwithstanding anything contained in this Chapter, the Court may order that no sum in respect of Advocate's fee shall be included in the table of costs of a party in whose plaint, memorandum of appeal or application, as the case may be, the value of the claim has been falsely and dishonestly stated. In such case the Court may allow such additional sum to be included in the table of costs of the other party on account of Advocate's fee as may appear to it to be reasonable.

20. Fee of Advocate not practicing at Allahabad or Lucknow.—No fee with respect to any advocate who does not *bona fide* reside and practice at Allahabad or Lucknow as the case may be, shall, unless he is present at the hearing of the case or the Bench hearing the case directs otherwise, be included in the taxation of costs.

21. No further fee in review or execution application.—Where a sum allowed on account of Advocate's fees has under Rule 2, 3, 4, 5, 6, 7, 8, 9, 10, 12 or 14 been included in the table of costs of party, no further sum on account of any fee paid to an Advocate shall be allowed to such party in respect of any application for a review of judgment, decree or order or for the execution of the decree or order of the Court unless it be shown to the satisfaction of the Bench hearing such application that the service of the Advocate in respect of whose fees the entry was made in the table of costs were not available for making of such application.

22. Fee of State Counsel in cases under Court Fees Act, 1870 and Stamp Act, 1899.—These Rules shall also regulate the inclusion of Advocate's fees in the taxation of costs in favour of or against the State in cases under the Court Fees Act, 1870, or the Stamp Act, 1899, in which, although the Government is not a party, costs are awarded to or against the Government.

23. Fees of the State Counsel in inquiries as to pauperism.—In an inquiry under Order XXXIII or XLIV of the Code on an application of a plaintiff or an appellant for permission to sue or appeal as pauper, or on an application for the dispaupering of a plaintiff or an appellant, the fee for the Advocate of the party making the application or the Advocate opposing it (including the Advocate for the State who opposes the application for pauperism or makes the application for dispaupering of a plaintiff or an

appellant) shall be Rs. [1][90]:

Provided that the Court may in a special case allow such fee as it may consider proper not exceeding an amount calculated according to the provisions of sub-rule (1) of Rule 2.

24. Fee of Advocate's clerk.—A sum calculated at the rate of [2][15] per cent, on the taxed fee of the Advocate of a party shall, subject to a minimum of two rupees be included in the taxation of costs on account of the fee of such Advocate's clerk.:

[3][Provided that the clerk concerned, other than the clerk of the Standing Counsel, has filed a fee certificate in the prescribed form duly signed by him, in the manner described in Rule 25 for filing fee certificate of advocates.]

The Rule shall also apply to the clerk of Standing Counsel, the amount so included being on realisation credited to Government.

25. Certificate of fee.—(1) Except in the case of an Advocate appearing for the Government [4][or Goan Sabha] or the Court of Wards or the Custodian, Evacuee Property, no fee shall be included in the taxation of costs unless the Taxing Officer is satisfied that the fee was paid to the Advocate prior to the delivery of the judgment or order by which costs became payable and unless the party claiming to have such fee included in the taxation of costs has prior to the delivery of such judgment or order filed a certificate signed by the Advocate concerned [5][enrolled in Part II of the common roll], showing that such fee has actually been paid to him by

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[1]Sub. Vide noti. No. 84/VIII-V-95. Dated:13.02.1977, w.e.f.16.04.1977

[2] Sub. Vide noti. No. 450/VIII-V-90. Dated:22.09.1973,which had been sub. By noti. No.104/VIII-C-90, dt. 14.04.1965, w.e.f.16.04.1977

[3] Substituted vide noti. No. 663/VIII-C-99, dt. 21.11.1980, w.e.f. 07.01.1981

[4] Sub. Vide noti. No. 361/VIII-C-176. Dated:25.08.1969, w.e.f.21.02.1977

[5] Sub. Vide noti. No.25/VIII-C-100. Dated:10.02.1966, w.e.f.17.06.1967

or on behalf of such party :

[1][Provided that in cases in which a senior Advocate is appearing such certificate shall be accompanied by a voucher/receipt signed by the senior Advocate for the fee paid to him:]

Provided [2][further] that the certificate filed after the time mentioned above but before the judgment or order is signed may, for sufficient cause shown, be accepted for inclusion in the taxation of cost by the Bench deciding the case.

(2) The certificate under this Rule shall be in the prescribed form and shall be presented by the Advocate or his clerk-

(a) if the case is before the Court [3][to the Bench Secretary concerned];

(b) in other cases, to the office between the hours of 11 a.m. and 12 noon.

The person presenting the certificate shall obtain the signature of the officer receiving it on the counterfoil. The officer receiving the certificate shall endorse thereon the date and the hour of its presentation.

In exceptional cases such certificate may be presented [to the Bench Secretary or the Registrar] between the hours of 3 and 3.30 p.m.

(3) Where the Court by its judgment or order allows a fee higher than that allowable under the Rules applicable to the class to which the case belongs, the certificate with respect to the payment of such additional fee may be filed within one month of the date of such judgment or order.

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[1] Inserted by noti. No. 25/VIII-C-100, dt. 10.02.1966, w.e.f. 17.06.1967

[2] Inserted by noti. No. 25/VIII-C-100, dt. 10.02.1966, w.e.f. 17.06.1967

[3] Sub. by noti. No. 680/VIII-C-2, dt. 26.11.1980, w.e.f. 11.04.1981

Part III - Criminal Jurisdiction

Chapter XVII to XX Chapter XVII

CHAPTER XVII - [1][* * *]

CHAPTER XVIII

Proceedings Other than Original Trials

1. Presentation of appeals and applications.—Every petition of appeal or application for revision or other application in a criminal matter shall be presented in Court except where it may under these Rules or by order of the Court or the Chief Justice be filed before the Registrar or any other officer of the Court.

2. Order of Court on motion to admit an appeal or application.— Where the Bench before which a motion is made for the admission of a petition of appeal or an application for revision or other application finds that it is not accompanied by the requisite papers, if any, or is otherwise not in order or has not been presented within time to it may decline to receive it or reject it or pass such other order as it may consider fit.

Where it finds that such petition or application is in order, has been presented within time and is accompanied by the requisite papers, if any, it may-

(i) in the case of petition of appeal make an order admitting it and directing notice to be issued; and

(ii) in the case of an application for revision or other application dismiss it or direct notice to be issued or pass such other order as it may deem fit :

Provided that nothing contained in this Rule shall preclude the Bench from dismissing any petition of appeal [under Section 384 of the Code of Criminal Procedure, 1973], or require notice of an application to be issued where notice of such application has already been served upon the other party or his Advocate.

3. Contents of petition of appeal or application for revision or other application.—(1) Every petition of appeal or application for revision

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[1] Omitted by Not. No. 680/VIII-C-2, dated 26.11.1980

shall state-

(a) the name and, where the appeal or revision is not on behalf of State, the address, of each appellant or applicant;

(b) the name and, where the opposite party is not the State, the address, if available, of each opposite party;

(c) the Court of whose order the appeal or revision is filed [1][……..];

(d) the nature of the order passed including the sentence awarded, if any, by such Court;

(e) the provisions of law defining the offence of which the accused person was convicted or acquitted by such Court or under which he was dealt with by such Court;

(f) the ground or grounds, numbered consecutively, of objection to the order from which the appeal or revision is filed;

(g) the relief sought;

and shall be signed by the appellant or the applicant, as the case may be, or by an Advocate on his behalf.

(2) A petition of appeal from an appellate order of acquittal or an application for the revision of an order passed in appeal or revision shall also state the name and description of the Court which tried the case in the first instance and the nature of the order passed by it.

(3) In a case in which a sentence of imprisonment has been awarded the petition of appeal or the application for revision shall also contain a certificate signed by the Advocate for the appellant or the applicant, as the case may be, stating that the accused was not on bail or that, if he was on bail, he has surrendered to it. In a case in which bail has been granted by the Court appealed from under [2][sub-section (3) of Section 389 of the Code of Criminal Procedure, 1973], the fact shall be stated in the petition of appeal indicating the period for which such bail has been granted.

4. Appeal or revision to be connected with jail appeal for revision previously filed.—Where a petition of appeal or an application for revision has been previously presented by the appellant to the officer-in-charge of

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[1] Deleted by Not. No. 229/UHC/Admin.A/2020 Dt. 28.10.2020

[2] Sub. By Not. No. 680/VIII-C-2, dated 26.11.1980

the jail, the petition of appeal or application for revision filed on his behalf through an Advocate shall mention that fact if known to such Advocate. In such cases the [1][Bench Secretary] shall obtain an order from Court that the two cases be connected and heard together.

5. Copies of Judgment.—Every criminal appeal or revision shall be accompanied by a copy of the judgment or order appealed against or sought to be revised and where there has been an appeal or revision in a subordinate Court by copies of the judgments of all the subordinate Court :

[2][Provided that every criminal revision shall also be accompanied by an extra copy of the judgment or order sought to be revised or extra copies of the judgments of all the subordinate Courts, as the case may be, duly certified by the counsel, for use of the Government Advocate,] [3][and by a certificate from the Sessions Judge to the effect that no application for revision in regard to an order sought to be revised by the High Court has been made in the Sessions Courts. The applicant shall give an undertaking that he will not file a revision against the said order in the Sessions Court :]

Provided [4][further] that the Court may for sufficient cause shown dispense with any such copy.

6. Petition of appeal, or application or affidavit to be accompanied by copies.—Every petition of appeal or application or affidavit filed in Court shall be accompanied by as many typed copies thereof as there be parties to be served, together with-

(i) two extra copies in a Division Bench case or in an application for bail or stay or proceedings in a case pending before a Court of Session; or

(ii) one extra copy in every other case.

No order shall issue from the Court on a petition of appeal or application until the required number of such copies has been supplied.

[5][Such copies shall be certified to be correct by the party supplying

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[1] Subs. Vide noti. No. 680/VIII-V-2, dt. 26.11.1980, w.e.f.11.04.1981

[2] Added by Not. No. 89/VIII-G-8, dated 12.02.1974

[3] Added by Not. No. 25/VIII-B-113, dated 21.11.1977

[4] Added by Not. No. 89/VIII-G-8, dated 12.02.1974

[5] Added by Not. No. 85/VIII-C-632, dated 05.06.1962

them or his Advocate.]

7. Office report on a petition of appeal or revision.—Before a petition of appeal [1][or a leave petition under Section 378, Cr.P.C.] or application for revision is presented the appellant or the applicant, as the case may be, or his Advocate shall obtain thereon a report from the office with respect to the following matters, namely-

[2][In the case of an appeal or a leave petition]-

(i) whether it lies to this Court;

(ii) whether it is within time;

(iii) whether it is accompanied by the requisite papers;

(iv) whether any court-fee is payable and where a court-fee is payable, whether the court-fee paid is sufficient; and

(v) whether the appeal had been previously filled on behalf of the appellant or any other person tried along with him and, if it had been so filed, the result in case the appeal has been decided.

In the case of a revision-

(i) whether it has been filed within the ninety days excluding the time taken in obtaining the requisite copies;

(ii) whether it is accompanied by the requisite papers;

(iii) whether any Court-fee is payable and if a Court-fee is payable, whether the Court-fee paid is sufficient;

(iv) whether an application for revision had been previously filed in the Court of the Sessions Judge or the District Magistrate, as the case may be;

[3][(v) whether an application for revision had been previously filed in this Court on behalf of the applicant or any other person tried along with him or whether any leave petition had been preferred under Section 378, Cr.P.C. and if it had been so filed, the result in case the revision or leave petition filed under Section 378, Cr.P.C. has been decided.]

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[1] Subst. by Not. No. 322/VIII-C-2, dated 02.05.1984

[2] Insert. ibid

[3] Subst. by Not. No. 322/VIII-C-2, dated 02.05.1984

8. Cases to be registered and numbered.—(1) After an appeal or revision has been admitted it shall be registered and numbered.

(2) The following applications shall be registered and numbered after presentation as Criminal Miscellaneous cases, namely-

(a) application for bail;
(b) application for cancellation of bail;
(c) application for transfer of a case;
(d) application for withdrawal of a case from a subordinate Court;
(e) [1][* * *]
(f) application [2][under Section 96 of the Code of Criminal Procedure, 1973];
(g) application for stay of operation of order of, or proceedings in, Lower Court.
(h) application for the issue of a direction, order or writ under Article 226 of the Constitution in a criminal matter;
(i) [3][application under sub-section (1) or sub-section (2) of Section 340 of the Code of Criminal Procedure, 1973];
(j) application for the taking of proceedings in contempt of court; [4][and]
[5][(k) application [under Section 378(4) of the Code of Criminal Procedure, 1973:]]

[6][Provided that an application for transfer of cases shall be accompanied by a copy of the order passed by the Sessions Judge, if any.

(3) Cases in which the Court takes proceedings [7][under Section 340 (1) or 340 (2) of the Code of Criminal Procedure, 1973] or issues notice for contempt of Court otherwise than on an application and references [7][under Section 318 of the Code of Criminal Procedure, 1973] shall also be registered and numbered Criminal Miscellaneous Cases.

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[1] Deleted by Not. No. 680/VIII-C-2, dated 26.11.1980

[2] Subst. ibid

[3] Subst. ibid

[4] Subst. ibid

[5] Added by Not. No. 40/VIII-C-90, dated 19.02.1965

[6] Added by Not. No. 27/VIII-C-88, dated 21.11.1977

[7] Subst. by Not. No. 680/VIII-C-2, dated 26.11.1980

[1][(4) The application aforesaid shall set out the prayer stating clearly the exact nature of the relief sought supported by an affidavit setting out in the form of paragraphs the material facts and grounds upon which the applicant relies.]

9. Issue of Notice.—If an appeal is not dismissed summarily a day shall be fixed for its hearing and notices in the prescribed form shall be issued.

If an application for revision or other application is not rejected and an order directing the issue of notice is made, a day shall be fixed for its hearing and notices in the prescribed form shall be issued.

After notices have been issued in an appeal or revision the record shall be sent for unless otherwise ordered.

In the case of an appeal [under Section 341 of the Code of Criminal Procedure, 1973], the record of the case out of which the proceedings under appeal arose shall also be sent for unless otherwise ordered.

[2]**[10. Free legal aid to indigent accused.—**(1) A panel of lawyers shall be drawn up every third year by the Court to re present such accused persons who are incapable of engaging any counsel for their defence due to indigence or incommunicado situation within the meaning of Section 304 of the Code of Criminal Procedure, 1973.

(2) The Panel shall consist of such number of Advocates having three years' practice at their credit, as the Court may from time to time, fix.

(3) In cases where the circumstances of the case, the gravity of the sentence and the ends of justice so require, if the accused intimates his intention to appeal to the High Court and expresses his inability to engage a counsel for the purpose, the Court shall afford him an opportunity to name an advocate from the panel of lawyers maintained under sub-rule (1) and, as far as possible, shall assign the case of that accused person to the Advocate so named by the prisoner.

(4) The scale of fees of the Advocates serving on the Panel of the Court shall be fixed by the State Government on the recommendation of the Court, which shall, while recommending the scale of fees for various types of cases, keep into consideration the nature of offence, the gravity of

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[1] Added by Not. No. 27/VIII-C-88, dated November 21, 1977

[2] Subst. by Not. No. 680/VIII-C-2, dated 26.11.1980

sentence and other allied matters.

(5) In order to ascertain under sub-rule (1) aforesaid whether the accused person is indigent or not, the Court shall order an enquiry to be made from the District Magistrate concerned whether he is possessed of sufficient funds to engage an Advocate at his expense in this Court.

(6) The power of appointment of the Advocate for a particular case shall be vested in the Chief Justice.

(7) The Advocate appointed under this rule to represent an accused shall be furnished with the necessary papers and allowed sufficient time to prepare the case.

(8) Where there are more than one such accused entitled to be represented by an Advocate at the State expense, the Chief Justice may appoint several Advocates to represent them if their defences are inconsistent.]

11. Personal attendance of accused in custody.—Where the accused is in custody his personal attendance shall not be required unless so ordered by the Court. A prayer for the personal attendance of the accused in Court shall not ordinarily be entertained if not made in sufficient time before the date of hearing to enable arrangements to be made with the Officer-in-charge of the jail in which the accused is confined for his attendance in the Court.

12. Personal attendance of accused unable to appear on account of poverty.—Where an accused in an appeal from acquittal or in a case in which notice has been given to him to show cause why his sentence should not be enhanced though not in custody is unable to appear before the Court on account of poverty, he may make an application to the Court for permission to appear accompanied by a certificate from his Advocate that his attendance is necessary for the purposes of the case. If the Court grants such application the District Magistrate concerned shall, if satisfied as to his poverty, provide him with sufficient funds to enable him to proceed to this Court and certify the fact to the Court. When the accused appears he shall report himself to the Registrar.

13. Jail appeals and revisions.—(1) Rules 1, 2, 3, 6 and shall not apply in the case of a petition of appeal or an application for revision presented by an accused person who is confined in jail to the officer-in-charge of the jail. Where a petition of appeal or an application for revision has been so presented, the officer-in-charge of the jail shall have recorded thereon the name and other particulars of the appellant or the applicant, as

the case may be, the particulars of the case from which the appeal or revision arises and the dates when the application for copy of judgment was dispatched, when the copy was received and when the appeal or application was presented by the accused, and forward such petition or application along with the requisite copies to this Court with as little delay as possible.

(2) On receipt of such petition or appeal or application for revision the office shall examine it and endorse thereon a report containing as nearly as may be the particulars required under Rule 7 and the Registrar shall thereafter submit it to a Judge for orders. If the case is one which cannot be dealt with by a Judge sitting alone, the orders passed by the Judge shall be laid before another Judge for concurrence before they are issued. If the Judge does not dismiss the appeal or revision summarily and orders notice to be issued, the procedure prescribed for appeals and revisions presented in Court shall, as nearly as may be, be followed.

14. Jail appeal to be connected with a previously filed appeal.—Jail appeals shall be submitted to a Judge for orders after the expiry of the period of limitation, jail appeals by accused persons convicted in the same trial being submitted together. If an appeal arising out of the same case has been presented previously in Court, the fact shall be noted on the flyleaf before the papers are submitted to a Judge for orders and the Judge shall, if such appeal has not already been decided, direct that the appeal be admitted and connected with such previous appeal.

15. When jail appeal is presented beyond time.—Where a jail appeal is presented after the expiry of the period of limitation the officer-in-charge of the jail shall submit along with it a report as to the cause of delay. Where no such report has been submitted a report shall be called for from the jail concerned as to the cause of delay. Such report shall be laid before the Judge to whom the appeal is submitted for orders.

16. Information to prisoner of summary jail appeal, dismissal of.— Where a jail appeal is dismissed summarily [1][under Section 384 of the Code of Criminal Procedure, 1973] information shall be sent to the prisoner through the Sessions Judge concerned.

17. Revision and other applications from prisoner in jail.—Rules 14, 15 and 16 shall, as nearly as may be, be followed in the case of a jail revi-

[1] Subst. by Not. No. 680/VIII-C-2, dated 26.11.1980

sion. Other applications received from a prisoner through the officer-in-charge of the jail in which he is confined shall be laid before the Judge appointed to receive application on the criminal side for orders.

18. Application for bail.—[1][(1) No application for bail shall be entertained unless accompanied by a copy of judgment or order appealed against or sought to be revised and a copy of order passed by the Sessions Judge on the bail application for the applicant and unless the accused has surrendered except where he has been release on bail after conviction under Section 389 (3) of the Code of Criminal Procedure, 1973.

Explanation.—The copy of the order refusing bail passed by the Sessions Judge shall either be a certified copy or the copy furnished by the Sessions Judge free of charge to the accused.

(2) Every application for bail in a case which is under investigation or which is pending in a lower Court shall state whether application for bail had or had not been previously made before the Magistrate and the Sessions Judge concerned and the results of such applications, if any.]

[2][(3) Save in exceptional circumstances-

(a) No order granting bail shall be made on an application unless notice thereof has been given to the Government Advocate and not less than [3][**forty-eight hours**] have elapsed between the giving of such notice and the hearing of such application.

(b) If the application for bail has not been moved within two days after the expiry of the aforesaid period of ten days the applicant or his Counsel shall give two days previous notice to the Government Advocate as to the exact date on which such application is intended to be moved.

(c) Where the prayer for bail is contained in a petition of appeal or application for revision, notice thereof may be given to the Government Advocate the same day prior to the hearing of such petition or application and the fact of such previous notice having been given, shall be endorsed on such petition or application. Alongwith such notice a certified copy or one attested to be true by the counsel, of the Judgment appealed from or sought to be revised shall also be

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[1] Subst. by Not. No. 27/VIII-C-88, dated November 21, 1977

[2] Subst. by Not. No. 659/VIII-C-88, dated 21.11.1980

[3] Substituted by Noti., No. 35/UHC/Admin. A/2018, dated 12th Sept. 2018

given to the Government Advocate.]

(4) Every application for bail shall show prominently in the first page thereof the crime number, the police station by which and the section or sections and the Act or Rules under which the applicant is being prosecuted or has been convicted and whether such application is the first, second or any such subsequent application moved by him before this Court, and shall be accompanied by a copy of the first information report. It shall also state the following particulars, namely.—

(a) The date of the alleged occurrence;

(b) The date of the applicant's arrest.

[1][The Bench Secretary shall while entertaining a bail application for presentation to the court check every page there of and shall affix a rubber stamp of the bail application and all the annexures thereto before putting it up before the court in token of his having checked, every page of the bail applications and containing his initials on every page he shall, thereafter, make the following endorsement on the bail application :

'Moved before Hon'ble ..... J. on ..... (date)'

Similarly the official whose duty it is to receive the bail application from the court after orders, shall affix a rubber stamp containing his initials on the first page of the bail application in token of his having checked that all the pages of the bail application bear the rubber stamp of the Bench Secretary.

The rubber stamps containing the initials of the Bench Secretary and the official or officials authorised to receive fresh bail application from the Court shall be supplied to the Bench Secretaries and the officials by the Registrar of the Court.

The application shall not be returned to the applicant or his counsel after the above endorsement has been made.]

[2][(5) Every page of the application for bail and every page of the annexures thereto shall bear the full signature of the applicant or his counsel.

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[1] Subst. by Not. No. 383/VIII-C-21, dated 18.10.1989

[2] Added by Not. No. 27/VIII-C-88, dated 21.11.1977

(6) In every such application shall be stated the full particulars of the previous application or applications, if any, moved in this Court by same applicant in respect of the same crime and the date or dates on which such previous application or applications had been rejected.]

19. [1][* * *]

20. [2][* * *]

21. Revision arising out of an order of a Judge on a Sessions statement etc.—Where a Judge acting [3][under Section 397 of the Code of Criminal Procedure, 1973] directs on the perusal of a Sessions statement or a periodical return of a judgment or otherwise that the record be sent for or that notice be given to the accused to show cause why his sentence should not be enhanced, a copy of the order accompanied by all relevant extracts and references, if any, shall be sent to the Criminal Department and the case shall be registered as a revision and proceeded with accordingly.

22. Notice.—Notice in different classes of cases shall, unless otherwise ordered, be issued as indicated below, namely-

(1) Appeal.—Where an appeal has not been dismissed summarily notice of the time and place at which such appeal will be heard shall be given to-

(i) the appellant or his Advocate, or, where the State is the appellant, to the Government Advocate, and

(ii) where the State is not the appellant, to the Government Advocate, and, where the State is the appellant to the respondent as also to the Court appealed from.

(2) Revision.—Where notice has been directed to be issued, notice shall be given to the applicant, if any, or his Advocate and the Government Advocate as also to such opposite parties as may be arrayed in the application. Where the State is the applicant notice shall be given to the Government Advocate and such opposite parties as may be arrayed in the application.

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[1] Deleted by Not. No. 6/VIII-C-167, dated 24.11.1976

[2] Deleted by Not. No. 680/VIII-C-2, dated 26.11.1980

[3] Subst. ibid

[1][Where the Court acting under Section 401 of the Code of Criminal Procedure, 1973 directs notice to be issued, notices shall be given to the Government Advocate and the accused or in a case in which there has been no conviction or acquittal, the parties affected by the order passed in the case.]

(3) Reference.—Where notice has been directed to be issued on a reference [2][under Section 395 of the Code of Criminal Procedure, 1973], notice shall be given in accordance with the second paragraph of Clause (2).

[3][In a reference under Section 366 of the Code of Criminal Procedure, 1973, notice shall be given to the Government Advocate and the accused.]

In a reference under section 318 of the Code of Criminal Procedure, 1973, notice shall be given to the Government Advocate and, if possible, to the accused or his guardian or Advocate.

(4) Miscellaneous Application.—In a miscellaneous application notice shall be given to the applicant, the Government Advocate and the opposite parties and where the application is on behalf of the State to the Government Advocate and the opposite parties:

[4][Provided that no notice of an application under [5]{Section 378 (4) of the Code Criminal Procedure, 1973} need be issued to the accused opposite party.]

23. Notice to prisoner confined in jail to show-cause against enhancement of sentence.—Where notice is sent to the officer-in-charge of a jail for service upon a prisoner confined in the jail calling upon him to show-cause why his sentence should not be enhanced it shall require such officer to serve the notice and return it along with an endorsement showing that it has been served upon the prisoner and that he has been informed that he can appear either in person or by Advocate in the High Court and that if he desires to appear in person necessary arrangements will be made by him for his presence in that court through the district magistrate. It shall further require him to indicate whether the prisoner wishes to appear in person

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[1] Subst. by Not. No. 680/VIII-C-2, dated 26.11.1980

[2] ibid

[3] ibid

[4] Added by Not. No. 40/VIII-C-90, dated 19th February, 1965

[5] Subst. by Not. No. 680/VIII-C-2, dated 26.11.1980

and show-cause against his conviction or declines to appear in person or to show cause against such conviction.

24. Rules 2 and 3 of Chapter XIV to apply to preparation of paper book.—Except as otherwise provided in this Chapter Rules 2 and 3 of Chapter XIV shall, with necessary modifications and adaptations, apply to a paper-book in a criminal case under this Chapter.

25. Paper-book in criminal appeal.—Copies to be included in the paper-book of a criminal appeal (other than a jail appeal which may be heard by a Judge sitting alone) [1][or an appeal under section 341 (1) of the Code of Criminal Procedure, 1973 or a reference under Section 366 of the Code of Criminal Procedure, 1973] or a case in which the accused has been called upon to show-cause why his sentence should not be enhanced shall, unless otherwise ordered, be those of the following papers or such of them as may be on the record, namely-

(A) Papers relating to investigation-

(i) first information report;

(ii) confession or statement recorded under [2][Section 164 of the Code of Criminal Procedure, 1973];

(iii) dying declaration;

(iv) injury report;

(v) report of post-mortem examination;

(vi) report of Chemical Examiner;

(vii) report of Serologist to Government of India;

(viii) record of identification proceedings; and

(ix) recovery list.

(B) Papers relating to magisterial enquiry-

(i) statement of witnesses recorded by the magistrate which have been brought on the record of the sessions court;

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[1] Subst. by Not. No. 680/VIII-C-2, dated 26.11.1980

[2] ibid

(ii) examination of accused and his written statement, if any, and

(iii) charge framed against the accused.

(C) Papers relating to proceedings before the sessions court-

(i) amended charge;

(ii) plea of accused;

(iii) statements of witnesses;

(iv) examination of accused and his written statement, if any;

(v) important exhibits other than those included under heads A and B; [1][and]

(vi) [2][* * *]

(vii) judgment.

(D) High Court Papers.

Petition of appeal.

26. Paper-book in appeal [3][under Section 341 (1) of the Code of Criminal Procedure, 1973].—Copies to be included in the paper-book of an appeal [4][under Section 341 (1) of the Code of Criminal Procedure, 1973], shall, unless otherwise ordered, be those of the following papers or such of them as may be, on the record, namely-

(i) petition of appeal;

(ii) judgement or order under appeal;

(iii) application together with annexures, if any, made [5][under sub-section (1) or sub-section (2) of Section 340 of the Code of Criminal Procedure, 1973];

(iv) reply to such application;

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[1] Sub. Vide no. 680/VIII-C-2, dt. 26.11.1980, w.e.f.11.04.1981

[2] Omitted by Not. No. 680/VIII-C-2, dated 26.11.1980

[3] Subst. ibid

[4] Subst. ibid

[5] Subst. ibid

(v) affidavit filed by parties relating to the charge;

(vi) evidence recorded at preliminary enquiry; and

(vii) complaint made in consequence of judgment or order under appeal.

27. Paper-book in Criminal Revision of Jail Appeal.—Subject to Rule 25 the paper-book in criminal revision, jail appeal, or any other case not provided for shall, unless otherwise ordered, consist of High Court papers and such papers on the record of the court or courts below as may be necessary :

Provided that a typewritten paper-book shall, subject to orders passed by the Chief Justice, be prepared in a case which may be heard by a Division Bench.

Where the copy of the judgment included in High Court papers is not in English or in the language of the State, a translation of such judgment in English shall also be included in the paper book.

28. [1][* * *]

29. Paper-book in a contempt of court case.—In a case of contempt of court, copies to be included in the paper-book, shall, as nearly as may be, be of the following papers, namely-

(i) application or report or order with relevant annexures, if any, upon which notice was issued; and

(ii) copies of the following papers shall be added to the paper-book from time to time as occasion arises, namely-

(i) affidavit filed in the case;

(ii) orders passed by the Court.

30. Paper-book in a reference [2][under Section 313 of the Code of Criminal Procedure, 1973].—In a reference [3][under Section 313 of the Code of Criminal Procedure, 1973], the paper-book shall, as nearly as may be, be as in the case of criminal appeal.

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[1] Omitted by Not. No. 680/VIII-C-2, dated 26.11.1980

[2] Subst. ibid

[3] Subst. ibid

31. Preparation of paper-book.—In all cases in which a sentence of death has been passed or notice has been given to the accused to show cause why his sentence should not be enhanced and the offence is one in which a sentence of death may be passed [1][or appeals under Section 374 (2) or under sub-section (1) or (2) of Section 378 of the Code of Criminal Procedure, 1973], a printed paper-book shall be prepared. In [2][appeals under sub-section (4) of Section 78 of the Code of Criminal Procedure, 1973] and in cases covered by Rules 25, 26, 29 and 30 a typewritten paper-book shall be prepared.

Where a reference has been made by the Court of Session [3][under Section 366 of the Code of Criminal Procedure, 1973], for the confirmation of the sentence of death passed by him and an appeal has also been presented by a person convicted in the same case, a single printed paper-book shall be prepared :

Provided that no typewritten paper-book shall be prepared in a case which may be heard by a Judge sitting alone if so ordered by the Chief Justice.

32. Arrangement of papers in parts.—Except in cases covered by Rule 29, before preparing a typewritten or printed paper-book the office shall remove from the records of the case the papers indicated below and arrange them as nearly as may be, in three parts :

Part I shall consist of High Court papers.

Part II shall consist of papers mentioned under heads (A), (B) and (C) of Rule 25 or under Rule 26.

Part III shall consists of the following papers, namely-

(i) police charge-sheet;

(ii) commitment order;

(iii) calendar;

(iv) opinions of assessors; and

(v) exhibits other than those included in Part II arranged in the order of

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[1] Subst. by Not. No. 680/VIII-C-2, dated 26.11.1980

[2] Subst. ibid

[3] Subst. ibid

their exhibit numbers.

33. Number of printed copies of paper-book.—Where a printed paper-book is prepared under these Rules [twenty two] copies thereof shall be printed, ten being reserved for the use of the Court.

The Registrar may, where necessary, direct a larger number of copies to be printed.

34. Number of copies of typewritten paper-book.—(1) Where a type-written paper-book is required, two copies thereof shall be prepared in a case which may be heard by a Judge sitting alone and three in other cases, one copy being given in either case to the Government Advocate for his use.

(2) The Advocate for the parties may, except in a case of contempt of court, apply for the preparation of as many copies of such paper-book as may be required for their use on payment at such rates as may be fixed by the Chief Justice from time to time. Such copies may be supplied if the Registrar can conveniently arrange to have them prepared by the office. No application for such copies shall be considered if made after the lapse of thirty days from the date on which the appeal is admitted [1][or in the case of a reference under Section 318 of the Code of Criminal Procedure, 1973], after the lapse of thirty days from the date on which such reference is received by the Court, or in a case in which notice has been given to the accused to show cause why his sentence should not be enhanced, after the lapse of thirty days from the date on which such notice is served :

[2][Provided that the Registrar may in his discretion allow an application for copy or copies of such paper book to be made even after the expiry of thirty days as enjoined in the Rules, if he is satisfied that the record or manuscript of the paper-book has not been sent for typing or printing.]

[3][(3) Before an application for preparation of a copy or copies of the paper-book is presented under sub-rule (2) [a sum of Rs. 50 for every such copy]shall be deposited with the Cashier, who shall make an entry on the application indicating that such deposit has been made. If the amount so deposited be found to be less than the actual cost of the paper-book the Advocate concern shall pay the balance of the time of taking the paper

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[1] Subst. by Not. No. 680/VIII-C-2, dated 26.11.1980

[2] Added by Not. No. 27/VIII-C-88, dated 21.11.1977

[3] Added by Not. No. 20/VIII-C-88, dated 26.01.1960

book and if this amount is in excess of the actual cost of the paper book an unstamped application for refund of such excess may be presented to the Deputy Registrar after the amount of such cost has been ascertained. In the event of the paper book not being taken the amount of the deposit shall stand forfeited to Government after the case has been decided.]

35. Material exhibits.—When the record of a sessions case has been received in an appeal [1][or reference under Section 366 of the Code of Criminal Procedure, 1973] and there are material exhibits in the case, the office shall see whether the Judge has recorded an order as required by the rules contained in Chapter XIII, General Rules (Criminal), 1957 regarding such exhibits and whether the exhibits required by such order to be submitted to the High Court have been received. Any defect shall immediately be brought to the notice of the Sessions Judge.

Where there are material exhibits in the case and no order as indicated above has been recorded by the Judge, his attention shall immediately be drawn to such omission and he shall be asked to state what material exhibits are fit for submission to the High Court and in case they have not already been forwarded to the Court to submit them without delay.

36. Custody of material exhibits.—All material exhibits received in a case shall be examined by and kept in charge of the clerk concerned. He shall enter them in the appropriate register showing the number of the case in which and the district from which each exhibit has been received. He shall see that all such exhibits are in accordance with the list, if any, on the record of the case. Where no such list exists, he shall himself prepare one in duplicate and have it checked and signed by the Section Officer. The duplicate copy of such list shall be sent to the Court from which the exhibits have been received, the original being placed on the record of the case. Any discrepancy in the number or condition of exhibits shall immediately be brought to the notice of the Register. All valuable exhibits consisting of ornaments, cash or currency notes shall be kept in an iron safe the key of which shall remain with the Register or such officer as he may nominate. All exhibits shall be kept in a locked room.

37. Application or petition by post.—The officer-in-charge of a jail may forward an application or petition presented to him by a prisoner confined in the jail to the High Court by post. Any other application or petition received by post shall be returned for presentation either in person or

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[1] Subst. by Not. No. 680/VIII-C-2, dated 26.11.1980

through an Advocate or where the prisoner is confined in a jail through the office-in-charge of the jail concerned.

38. Recommendation for mercy.—In a case in which the Court makes a recommendation to the State Government for the exercise of the prerogative of mercy, a copy of the Court's judgment together with a copy of the judgment of the Court below shall be forwarded to the State Government along with a letter setting out the recommendation. Where a printed paper-book has been prepared, a copy of such paper book shall also be forwarded along with the letter.

39. Signing of notices etc.—All notices, summonses and warrants issued by the Court in criminal cases shall be singed by the Registrar or the Deputy Registrar [1][* * *].

40. Registrar to sign complaint [2][under Chapter XXVI of the Code of Criminal Procedure, 1973].—Where an order has been passed[3][under Chapter XXVI of the Code of Criminal Procedure, 1973], that a complaint be made, such complaint shall be drawn up and signed by the Registrar after it has been approved by the Judge or Judges passing order.

41. List of ready cases.—A list of cases ready for hearing shall be prepared from time to time and posted on the noticeboard.

42. Adjournment on request by Government Advocate.—In special cases if the Government Advocate is not ready or needs instruction from the district magistrate or some other authority or requires the attendance of some officer to instruct him at the time of hearing, he may apply to the Registrar that the case may not be listed for a specified period or that a particular date be fixed for hearing. The Registrar may thereafter fix a date after consulting the Advocate for the other party.

43. Issue of order after decision.—(1) Where a sentence of death has been confirmed or passed by the court, an order in the prescribed form shall be issued immediately to the Court concerned.

In a case in which a sentence has been set aside or a conviction has been reversed or there has been reduction or alteration in the nature of the sentence or an accused who is on bail has been ordered to surrender to his

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[1] Omitted by Not. No. 680/VIII-C-2, dated 26.11.1980

[2] Subst. ibid

[3] Subst. ibid

bail on the decision of the case, a copy of the relevant entry in the order sheet shall be issued immediately to the court concerned along with a letter in the prescribed form [1][and an entry made in register in Form No. 59-A] :

[2][Provided that in any case in which the accused is in jail and his conviction has been reversed and/or sentence of imprisonment has been set aside or reduced to the period already undergone or altered into one of fine only, a copy of the relevant entry in the order-sheet together with a release order in prescribed Form No. 59-B under the signature of the Deputy Registrar (Judicial) and the seal of the Court shall be sent to the Superintendent or the Officer-in-charge of the jail in which the accused is in confinement directing him to release the accused, if not required in any other case, and the fact of such release shall be communicated to the trial Court as early as possible :]

[3][Provided further that when a release order is issued to a jail outside the district, the Deputy Registrar (Judicial) shall simultaneously give an intimation about its dispatch by radiogram to the Superintendent or the Officer-in-charge of the jail concerned.]

A copy of the judgment shall in every such case be certified to the Court concerned in due course.

(2) In other cases an order in the appropriate form shall be issued to the court concerned as soon as the judgment or order of the court has been received in the office and shall be accompanied by a copy of such judgment or order.

[4][(3) e-Authenticated copies of the Interim Orders, Stay Orders, Bail Orders and Record of Proceedings of the Supreme Court of India and High Court of Uttarakhand, communicated to the duty holders through the FASTER (Fast and Secure Transmission of Electronic Records) System via secured email domain i.e.,xxxx@jcn.nic.in, shall be recognized for due compliance and execution by all the duty holders.]

44. Copy of judgment to be sent to magistrate.—Where in a case decided by the Court the proceedings of a magistrate were under consider-

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[1] Added by Not. No. 164/VIII-A-30, dated 17.04.1964

[2] Added by Not. No. 1/VIII-C-160, dated January 28, 1978

[3] Added by Not. No. 662/VIII-C-160, dated 21.11.1980

[4] Inserted by Uttarakhand High Court Not. No. 342/UHC/Admin.A/2022, dated November 05, 2022

ation an additional copy of the judgment shall be sent to the Sessions Judge for being forwarded to the magistrate concerned through the [1][Chief Judicial Magistrate, Chief Metropolitan Magistrate or District Magistrate, as the case may be.]

[2][44A- e-Authenticated copies of Interim Orders, Stay Orders, Bail Orders and Record of Proceedings received through FASTER System-

(1) District Judge shall be responsible to receive, acknowledge the receipt and to send compliance report, of the orders of the Hon'ble Supreme Court and the High Court of Uttarakhand, sent through the FASTER system via secured email domain i.e.,xxxx@jcn.nic.in.

(2) The District Judge, on being communicated of an e-Authenticated copy of Interim Order, Stay Order, Bail Order and Record of Proceedings through the FASTER System, shall, also forward such e-Authenticated copy to the concerned Court for due compliance/execution without delay.]

45. Copy of paper-books to be forwarded to Government in case of sentence of death.—In a case in which a sentence of death has been confirmed or passed by the Court or where a sentence has been enhanced to one of death two copies of the printed paper-book along with two copies of the Court's judgment shall be forwarded to the State Government. Where no printed paper-book has been prepared, the original paper-book containing the proceedings of the Court below shall be forwarded along with two copies of the Court's judgment to the State Government with a request that the original paper-book be returned when no longer required.

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[1] Subst. by Not. No. 11/VIII-A-30, dated 12.05.1978

[2] Inserted by Uttarakhand High Court Not. No. 342/UHC/Admin.A/2022, dated November 05, 2022

CHAPTER XIX - [1][* * *]

CHAPTER XX

Examination of Judgments of Sessions Judges

1. Submission of judgment in sessions trials to Judges.—(1) Copies of judgments in sessions trials received monthly from Sessions Judges shall remain with the Superintendent, Criminal Department, for two months from the last date of the month in which such judgments are received and shall thereafter be submitted without delay to Judges for perusal and orders in groups as approved by the Judge in the Administrative Department. The same group shall be submitted to one and the same Judge for two consecutive months. Before such judgments are submitted to Judges, they shall be duly entered in the appropriate register and a note made on each judgment after an examination of relevant registers whether an appeal or application for revision from such judgment has been received or filed in Court. Where no appeal lies to the High Court, a note shall be made on the judgment to that effect. Judgments shall be submitted to Judges in separate batches under appropriate heads.

(2) Such judgments shall not be submitted to the Chief Justice or the Judge in the Administrative Department.

(3) During the vacation such judgments shall be submitted only to Judges sitting during the vacation in equal proportions.

2. Orders by the Judge.—Where a Judge on a perusal of a judgment directs that the record be sent for or notice issued, the appropriate procedure prescribed in these rules shall be followed. If the order passed by the Judge contains a criticism of the judgment, it shall be put up before the Registrar for necessary orders.

3. Register of submission of judgments to Judges.—The Superintendent, Criminal Department, shall make a note in the appropriate register of the date of submission of each judgment to the Judge concerned and shall within two months from such date obtain from that Judge its return together with his order, if any, thereon and shall also record the date of such return in the register.

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[1] Deleted by Not. No. 660/VIII-A-30, dated 12.05.1978

Part IV - Enforcement of Fundamental Rights

CHAPTER XXI

[1][Writ in the Nature of Habeas Corpus under Article 226 of the Constitution]

[2][**1. Application.—**(1) An application under Article 226 of the Constitution for a writ in the nature of habeas corpus except against private custody, if not sent by post or telegram shall be made to the Division Bench appointed to receive applications or, on any day on which no such Bench is sitting, to the Judge appointed to receive applications in civil matters. In the latter event, the Judge shall direct that the application be laid before a Division Bench for orders.

(2) The application shall set out consciously in numbered paragraphs the facts upon which the applicant relies and the grounds upon which the Court is asked to issue a direction, order or writ, and shall conclude with a prayer stating clearly, so far as the circumstances permit, the exact nature of the relief sought. It shall also state whether any previous application was moved by or on behalf of the person restrained, and, if so, with what result :

Provided that an application under Article 226 of the Constitution in the nature of *habeas* corpus directed against private custody shall be made to the single Judge appointed by the Chief Justice to receive such an application.]

2. Application by post or telegram.—The application if received by post or telegram shall be put up as soon as possible before the Bench concerned for orders.

3. Contents of application and affidavit.—The application shall be accompanied by an affidavit of the person restrained verifying the facts stated therein by reference to the numbers of the paragraphs of the application containing the facts :

Provided that where the affidavit is made by a person other than the person restrained, such affidavit shall also state the reason why the person

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[1] Subst. by Not. No. 659/VIII-C-141, dated 15.07.1976

[2] Subst. by Not. No. 96/VIII-C-2, dated 16.02.1990

restrained is unable to swear the affidavit himself.

The affidavit filed under this rule shall be restricted to facts which are within the deponent's own knowledge :

Provided that subject to such orders that may be passed by the Bench concerned in this behalf, this rule shall not apply to an application made by post or telegram.]

4. Application by a Court-martial or any Commissioner.—Where the application is on behalf of a Court-martial or any Commissioner it may be in the form of a letter addressed to the Registrar setting out the circumstances in which the order is sought and need not be accompanied by an affidavit. The Registrar shall lay the letter as soon as possible before a Division Bench for orders.

5. [1][Contents of application for a change in custody for purposes of trial of a prisoner.] - Where the application is for an order that a prisoner within the Court's appellate criminal jurisdiction be removed from one custody to another for the purpose of trial the affidavit accompanying it shall state in whose custody the prisoner is detained, to what other custody it is proposed to remove him and the reason for the change of custody. Before any orders are passed, notice of such application shall also be served upon the prisoner and he shall be given an opportunity to be heard against such application.

6. Warrants.—In case in which the Court orders any person in custody to be brought before it, or before a Court-martial, or before any Commissioner, or to be removed from one custody to another, a warrant shall be prepared and signed by the Registrar and sealed with the seal of the Court.

7. Service of warrant.—Such warrant shall, where the person is under detention in a jail, be forwarded by the Registrar to the Officer-in-charge of the jail in which the prisoner is confined; in every other case the warrant shall be served upon the person to whom it is directed personally or otherwise as the Court may direct.

8. Notice.—If the Court does not find sufficient reasons to admit the application, it may reject it. Where the application is not so rejected, notice thereof shall be served upon the person against whom the order is sought

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[1] Subst. by Not. No. 659/VIII-C-141, dated 15.07.1976

calling upon him to appear on a day to be named therein to show cause why the application should not be granted, and if the Court so orders, the notice may direct such person at the same time to produce in Court the body of the person alleged to be illegally or improperly detained then and there to be dealt with according to law.

The Court may also order that notice of the application be served upon such other person or persons as it may consider proper. A notice issued under this rule shall, if the Court so directs, be accompanied by copies of the application and the affidavit, the copies being supplied by the applicant.

9. Order on application.—After the service of notice, on the day fixed for hearing or on any subsequent day to which the hearing may be adjourned if no cause is shown or if cause is shown and disallowed, the Court shall, in the case of a person found to be illegally or improperly detained, pass an order that he be set at liberty or delivered to the person entitled to his custody. In other cases the Court shall pass such orders as the circumstances of the case may require. If cause is allowed, the application shall be dismissed. The order for release made by the Court shall be a sufficient warrant to any galore or other public servant or other person for the release of the person under restraint.

10. Procedure.—All questions arising for determination under this Chapter shall be decided ordinarily upon affidavits, but the Court may direct that such questions as it may consider necessary be decided on such other evidence and in such manner as it may deem fit and in that case it may follow such procedure and pass such orders as may appear to it to be just.

11. Costs.—In disposing of an application under this Chapter the Court may make such order as to costs as it may consider just.

12. Communication of orders.—Any orders passed by the Court shall be communicated for compliance to such person or persons as may be necessary.

[1][Chapter XXI-A

Writs in the nature of Public Interest Litigation under Article 226 of the Constitution of India

In exercise of powers conferred under Article 225 of the Constitution of India and all other powers enabling in that behalf, the Court has been pleased, by way of amendment of the existing **Rules of the Court, 1952, to add Chapter XXI-A** to the said rules, which shall bear the heading "Writs in the nature of **Public Interest Litigation** under Article 226 of the Constitution of India".

1. Enforcement—These Rules shall come into force at once, on the publication thereof in the official gazette.

2. Definitions—For this Chapter, unless the context requires otherwise, the terms expressed in these rules shall be read and understood as they have been defined hereunder:

(a) 'PIL-Petition' means a petition filed under Article 226 of the Constitution of India by a "Public Spirited Person", for espousing a cause in public interest.

(b) 'PIL-Letter' means a "Letter" addressed to the "Chief Justice" or the "Registrar", raising issued of public interest, and deserving consideration on the judicial side at the hands of the "High Court".

(c) "Letter" means a communication addressed to the "Chief Justice" or the "Registrar" of the High Court of Uttarakhand, complaining of an issue, espousing a cause in public interest and desiring consideration on the judicial side by the "High Court".

(d) 'High Court' means the High Court of Uttarakhand.

(e) 'Chief Justice' means Chief Justice of the High Court of Uttarakhand.

(f) 'Registrar' means the Registrar of the High Court of Uttarakhand.

(g) 'Public Spirited Person' means and includes, a person who has a genuine interest in the issue(s) being canvassed through a 'PIL-Petition', and can substantiate on the basis of material in his posses-

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[1]*Vide Notification No. 275 UHC/Admin B/XVIII-9-2010, Dehradun, May 26, 2010*

sion, that he has been pursuing the subject matter involved with the concerned authorities; but shall not include a person pursuing a private interest litigation, or a publicity interest litigation, or a political interest litigation, in the guise of a 'PIL-Petition'.

(h) 'Commission' means an advocate or a group of advocates, or an expert or a group of experts, appointed by a court dealing with a 'PIL-Petition' or a 'PIL-Letter', to carry out a task assigned to it, and to report to the court its finding(s) thereon, after investigating into the matter assigned to it, and / or researching upon the issue(s) assigned to it, and / or carrying out any other express instructions assigned to it.

(i) 'Amicus Curiae' means an advocate on the rolls of the bar Council of Uttarakhand, normally practicing in the "High Court", nominated by the "Chief Justice", to assist the Court hearing a "PIL-Letter", on the legal aspects of the issue(s) raised thereon; or an advocate on the rolls of the Bar Council of Uttarakhand, normally practicing in the "High Court", nominated by the Court hearing a "PIL-Petition", to assist it on the legal aspects of the matter.

3. Subject matter of "PIL-Petition" and "PIL-Letter"—(1) PIL Petition—A "Public Spirited Person", may file a "PIL-Petition" in respect of one or more of the subject matters expressed in sub-rule (3), unless the same is barred under sub-rule (4).

(2) PIL Letter—The "Chief Justice" may entertain a Letter as a "PIL Letter", received in the "High Court", in respect of one or more of the subject matters expressed in sub-rule (3), unless the same is barred under sub-rule (4).

(3) A cause in public interest may be raised in respect of any of the following subjects:

(a) Matters relating to enforcement of fundamental rights, including social and economic justice, and more particularly, for the enforcement of human rights, including the right to live with dignity, enshrined in Article 21 of the Constitution of India, concerning sections of the society who are either extremely poor, illiterate, depressed, vulnerable, discriminated, marginalized, or who may have no easy access to justice, so that they do not remain victims of ignorance, deception or exploitation; including matters, on the aforesaid issues as would shock judicial conscience; or

(b) Matters relating to protection of environment, ecology, forests, ma-

rine life, wildlife, mountains, hills, rivers, lakes, other natural resources of water, historical monuments, etc.; including provision for insuring quality of life and living; or

(c) Matter relating to good governance, pertaining to inaction of wrongful action of Government / Public Authorities or such other Authorities which can be treated as Instrumentalities of the Sate under Article 12 of the Constitution of India; wherein the Government / Public Authority / Instrumentality of the State, has transgressed a constitutional mandate or nay law, or has failed to perform a duty vested in it, including matters pertaining to corruption and maintenance of probity and morality in governance; or

(d) Matters relating to the enforcement of the Directive Principles of State Policy enshrined in Part IV of the Constitution of India, or issues of the like nature, or

(e) Matters of public interest not falling within sub-clauses (a) to (d) above, but are of a like nature, on being certified by the advocate representing the petitioner in a "PIL-Petition", or the concerned "Public Spirited Person" (in cases where he himself is pursuing the "PIL-Petition"), to be a cause in public interest, requiring consideration at the hands of the "High Court".

(4) No "PIL-Petition" or "PIL-Letter" shall be entertained on any of the following subjects:

(a) Matters which are purely in the private domain, such as landlord-tenant relationship, master-servant relationship, relationship between individuals or any juristic person, or any matter of the like nature; or

(b) Matters pertaining to service, employment, matrimonial issues or matters of the like nature; or

(c) Matters strictly falling in the arena of criminal or civil jurisdiction, and which constitute disputes amongst individuals, or any matter of the like nature; or

(d) Matters which relate to one person, as opposed to a group or class of persons.

4. Format of "PIL-Petition'—(1) The format for filling a "PIL-Petition" shall be the same, as has been prescribed for filing a writ petition in the "High Court". A "PIL-Petition" shall, however, not be entertained

unless the requirements, depicted in sub-rules (2) to (5), have been satisfied.

(2) Particulars about the petitioner, such as his name, address, nature of work and his interest in the cause he is espousing, shall be expressed in paragraph 1 of the "PIL-Petition", so as also to establish, that he fulfills the definition of the term "Public Spirited Person" recorded in Rule 2(g).

(3) The Petitioner in a "PIL-Petition" shall express in paragraph 2 the reasons why the cause espoused falls in a particular sub-clause, under Rule 3(3), as also, briefly the subject matter in relation to which relief has been sought:

Provided that, in case the subject matter, raised in a "PIL-Petition", falls in sub-clause (e) of Rule 3(3), the petitioner shall express in paragraph 2 the reasons, on the basis whereof such conclusion has been drawn.

(4) The petitioner in a "PIL-Petition", shall express in paragraph 3, whether or not, as per his knowledge, any earlier petition(s) has/have been filed in the "High Court" on the same cause of action. It shall also disclose, whether the said petition(s) is/are pending or has/have been decided. In the later case, the order(s) of the "High Court", in the said earlier petition(s), shall also be attached as an annexure(s) to the "PIL-Petition".

(5) The "Public Spirited Person" filing a "PIL-Petition", on a pure question of law, shall express in paragraph 4 of the petition, whether or not the question of law raised, is res integra.

5. Format of "PIL-Letter"—(1) There shall be no prescribed format of a "PIL-Letter".

(2) Any "Letter", approved by the "Chief Justice", on such approval, shall be entertained on the judicial side as a "PIL-Letter".

(3) While approving a letter for consideration as a "PIL-Letter" on the judicial side, the "Chief Justice", shall nominate an "Amicus Curiae" to assist the court on the legal aspects involved therein.

6. Entertainment of a "PIL-Petition" or "PIL-Letter"—(1) A PIL-Petition", certified as falling in one or more of the subjects expressed in sub-clauses (a) to (e) of Rule 3(3), shall be entertained, upon certification by the advocate, or the "Public Spirited Person", as the case may be, filling the "PIL-Petition".

(2) A "Letter" shall be entertained for espousing a cause in public interest, on the judicial side as a "PIL-Letter", consequent upon the adminis-

trative approval thereof; by the "Chief Justice", or by the Hon'ble Judge nominated by him, for the said purpose.

7. Personal presence of the petitioner in a "PIL-Petition"—(1) The "Public Spirited Person", filing a "PIL-Petition", shall be present before the Court hearing the same, on the first date of hearing, and on all or any subsequent date(s) of hearing, as may be directed by the Court.

(2) In a "PIL-Petition" filed by a society / organization / body, its authorized representative, who has signed the "PIL-Petition", shall be present on the first date of hearing, and on all subsequent date(s) of hearing, as may be directed by the Court.

8. Personal presence of the author in a "PIL-Letter"—The Court hearing a "PIL-Letter", may require the personal presence of the author of the "PIL-Letter", on the first date of hearing, and on all or nay subsequent date(s) of hearing.

9. Appointments of "Commission"—The concerned Court, hearing a "PIL-Petition" or a "PIL-Letter" may appoint a "Commission" for the effective disposal of the issues arising for consideration.

10. Costs in "PIL-Petition(s)", "PIL-Letter(s)"—(1) Costs may be imposed on the petitioner in a frivolous "PIL-Petition" at the discretion of the Court hearing the same.

(2) Costs may be imposed if the facts/averments made in paragraphs 1 to 4 of the "PIL-Petition", in the format expressed in Rule 4, are false or have been filed without due application of mind.

(3) No costs shall be imposed in a "PIL-Letter", entertained with the approval of the "Chief Justice";

Provided that, in case a "PIL-Letter" is based on false facts, or fabricated documents, or is found to have been filed on account of extraneous considerations, the Court hearing the "PIL-Letter" may impose costs on the author of the "PIL-Letter".

(4) Costs shall be imposed in a "PIL-Petition", and /or a "PIL-Letter", if the Court hearing the same arrives at the conclusion that the filing of the "PIL-Letter" or "PIL-Petition" was vexatious or frivolous in nature.

(5) Costs shall be imposed in respect of subject matters falling in subclause (b) of Rules 3(3), at the discretion of the Court hearing the same, keeping in mind the costs involved for the restoration of the environmental violation committed.]

CHAPTER XXII

Direction, Order or Writ under Article 226 of the Constitution Other than a Writ in the Nature of Habeas Corpus

1. Application.—(1) An application for a direction or order or writ under Article 226 of the Constitution other than a writ in the nature of *habeas* corpus shall be made to the Division Bench appointed to receive applications or, on any day on which no such Bench is sitting, to the Judge appointed to receive applications in civil matters. In the latter event the Judge shall direct that the application be laid before a Division Bench for orders:

[1][Provided that an application under Article 226 of the Constitution questioning a judgment, decree or order made or purported to be made by revenue Courts including the Board of Revenue arising out of any proceeding under the United Provinces Land Revenue Act, 1901, or the U.P. Tenancy Act 1939, or the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, or the Uttar Pradesh Urban Areas Zamindari Abolition and Land Reforms Act, 1956, or the JaunsarBawar Zamindari Abolition and Land Reforms Act, 1956, or the Kumaun and Uttar Khand Zamindari Abolition and Land Reforms Act, 1960, or any order or judgment of any authority constituted under the U.P. Consolidation of Holdings Act, 1953 including the Director of Consolidation, shall be presented to a Judge sitting alone and appointed to receive such applications and those already presented to the Division Bench shall be heard by a Single Judge.]

[2][Where an *ad interim* order is sought, a separate application, after furnishing its copies and copies of all documents in support of the plea for such interim order to the other side against whom the order is sought, shall be made for the purpose. Such application need not be supported by another affidavit unless it is based on the facts which are not stated in the affidavit accompanying the writ petition:

Provided further that where any party against whom an interim order whether by way of injunction or stay, or in any other manner, is made on, or in any proceedings relating to, a writ petition-

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[1] Added by Not. No. 263/VIII-C-17, dated 31.05.1973

[2] Subst. by Not. No. 118/VIII-C-2, dated 10.02.1981

(a) without furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

(b) without giving such party an opportunity of being heard, makes an application to the Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made, or the counsel of such party, the Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the Court is closed on the 1st day of that period, before the expiry of the next day afterwards on which the Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated.]

[1][(2) The application shall set out concisely in numbered paragraphs the facts upon which the applicant relies and the grounds upon which the Court is asked to issue a direction, order or writ, and shall conclude with a prayer stating clearly, so far as the circumstances permit, the exact nature of the relief sought. The application shall be accompanied by an affidavit (or affidavits) verifying the facts stated therein by reference to the numbers of the paragraphs of the application containing the facts.

[2][All corrections and alterations in the application shall be initialled by the Oath Commissioners before whom such affidavit (or affidavits) is (or are) sworn.

Such affidavit (or affidavits) shall be restricted to facts which are within deponent's own knowledge] [3] [and such affidavit shall further state whether the applicant has filed in any capacity whatsoever, any previous application or applications on the same facts and, if so, the orders passed thereon.]

(3) Where objection is taken to any judgment or order o a Court or an Officer thereof the application shall be accompanied by a copy of such judgment or order and where there has been an appeal or revision from such judgment or order also by a copy of the judgment or order of the

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[1] Added by Not. Dated 05.11.1961

[2] Substituted by Not. Dated 21.02.1970

[3] Inserted by noti. no. 276/VIII-C-2, dt. 04.07.1989, w.e.f. 26/08/1989

higher court.

(4) Where the Government or an officer or department of the Government, or a Court, or a Tribunal, Board, Commission or other body appointed by the Government is an opposite party named in the application, the applicant shall before presenting the application serve notice of motion upon the Government Advocate in, criminal matters and upon Standing Counsel, if he is authorised to receive notice on behalf of such opposite party, in other matters along with as many copies of the application, affidavit and other papers accompanying it as may be equal to the number of parties to be represented by the Government Advocate or the Standing Counsel, as the case may be, and one extra copy for the use of the Government Advocate or the Standing Counsel naming therein the day for the making of the motion. The application shall indicate that such notice of motion has been served. There shall be at least [1][twenty four hours] between service of notice of motion and the day named therein for the making of the motion except where the matter is one of urgency and permission of the court is obtained for making such motion earlier.

[2]**[Note :-** The word Government, in the above sub-rule also refers to those departments of the Union of India for which a Standing Counsel has been duly appointed.]

[3][(4-A) Where the motion is intended to be made on a day other than the one named in the notice of motion referred to in sub-rule (4), another notice mentioning the date for the making of the motion shall be served, at least two clear days before the Government Advocate or the Standing Counsel, as the case may be. The application shall indicate that such notice of motion has been served]

2. Notice.—(1) If the court does not find sufficient reasons to admit the application it may reject it. Where the application is not so rejected, notice thereof shall be served on such opposite parties named in the application and on such other persons, if any, as the Court may direct:

[4][Provided that unless the Court otherwise directs it shall not be necessary to serve any notice on the parties represented by the Government Ad-

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[1] Subst. by Not. No. 96/II-A-2, dated 19.02.1976

[2] Added by Not. No. 438/VIII-C-141, dated 24.09.1971

[3] Added by Not. No. 147/VIII-C-141, dated 12.04.1971

[4] Added by Not. No. 127/VIII-C-141, dated 14.06.1955

vocate or the Standing Counsel as the case may be:]

Provided further that where notice of motion has already been served upon the Government Advocate or Standing Counsel, as the case may be, and there is no other party to be served, the court may dispose of it on the merits at the very first hearing.

(2) Where the application relates to any proceeding in or before a court and the object is either to compel the court or an officer thereof to do any act in relation to such proceeding or to quash it or any order made therein, notice thereof shall also be served on such court or officer as well as the other parties to such proceeding, and where any objection is taken with respect to the conduct of a Judge, also on the Judge.

(3) If at the hearing of the application the court is of opinion that any person who ought to have been served with notice of the application has not been so served. the Court may order that notice may also be served on such person and adjourn the hearing upon such terms, if any, as the Court may consider proper.

(4) Every notice under this Rule shall be accompanied by copies of the application and the affidavit, such copies being supplied by the applicant.

[1][(5) The opposite party shall at the time of putting in appearance through counsel or otherwise file in Court his registered address. In default address given in the proceeding by the other side will be deemed his registered address.

(6) Order III, Rule 4, C. P. C. shall apply to proceedings under this Chapter.]

3. Conditions as to costs or giving of security before issue of notice.— The Court may, before issuing notice of the application, impose upon the applicant such terms as to costs or the giving of security as it may think fit.

4. Application to be heard not less than eight clear days after service of notice.—Unless the court otherwise directs, the application shall be heard not less than eight clear days after the service of notices issued under Rule 2.

[2][Unless otherwise ordered, the counter-affidavit shall be filed not

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[1] Added by Not. No. 507/VIII-C-17, dated 19.10.1973

[2] Added by Not. No. 380/VIII-C-141, dated 10th September, 1969

more than three weeks after the service of notice and the rejoinder thereto shall be filed not more than two weeks after the service of the copy of such counter-affidavit on the applicant.]

5. Lodging of Caveat.—(1) Where an application is expected to be made or has been made, any person claiming the right to oppose such an application, may, either personally or through his counsel, lodge a caveat in the Court in respect thereof.

(2) 1[After receipt of the caveat the same shall be sent to the stamp reporter and when writ petition/appeal etc. is filed, the caveat shall be listed and laid before Bench concerned alongwith writ petition/appeal etc. showing the name of the counsel for the respondent/caveator also]

[2][Proviso…… Deleted.]

(3) [3][* * * *]

(4) [4][* * * *]

[5A. Hearing of persons not served with notice.—At the hearing of the application, any person who desires to be heard in opposition to the application and appears to the Court to be a proper person to be heard, may be heard notwithstanding that he has not been served with notice under rule 2.]

6. Application not maintainable if adequate relief obtained by other process of law.—[5][* * *]

7. No second application on same facts.—Where an application has been rejected, it shall not be competent for the applicant to make a second application on the same facts.

8. Procedure.—All questions arising for determination under this Chapter shall be decided ordinarily upon affidavits, but the court may di-

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1. Substituted by Notification No. 44/UHC/Admn.—A, 2003, dated 15th April, 2003.: Notification No. 151/UHC/Admn. 2002, dated 31.10. 2002 shall stand superseded

2. Proviso Deleted by Notification No. 44/UHC/Admn.A -2003, dated 15th, April, 2003

3. Deleted by Notification No. 44/UHC/Admn.—A, 2003, dated 15th April, 2003

4. deleted ibid

[5] Deleted by Not. No. 380/VIII-C-141, dated 10th September, 1969

rect that such questions as it may consider necessary, be decided on such other evidence and in such manner as it may deem fit and in that case it may follow such procedure and may pass such order as may appear to it to be just.

9. Costs.—In disposing of an application under this Chapter the Court may make such order as to costs as it may consider just.

10. Communication of orders.—Any order passed by the Court shall be communicated for compliance to such person or persons as may be necessary.

[1][10-A. Time Period for Implementation of orders: In the absence of any time period prescribed by the Court for implementation of the direction or order made or the rule absolute issued by the Court, the same shall be implemented within two months of the receipt of the order.]

[2]**[11. Transmission of order or costs for execution.—**Where costs have been awarded by the Court in a Writ Petition or in a special appeal from an order passed on a writ petition, but have not been paid, the person entitled to them may apply to the Court for execution of the order. The application shall be accompanied by an affidavit stating the amount of costs awarded and the amount remaining unpaid. The Court may direct the order to be sent to the District Court of the district in which the order is to be executed. The order may be executed by such court [3][as if it is a decree for costs passed by itself] or be transferred for execution to any subordinate court.]

[4]**[12. Notice to Standing counsel for Gaon Sabha cases.—**The provisions contained in sub-rule (4) of Rule 1 and 2 with regard to the Government and the Standing Counsel shall also apply *mutatis mutandis* to the GoanSabhas and the counsel appointed by the Government for conducting Gaon Sabha cases.]

[5]**[13. Return of documents.—**Except for a copy of impugned order/judgment, any document filed with a writ petition or with its affidavits

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[1]*Inserted by Notification No. 248/UHC/Admn.—A, 2019, dated 14.10.2019*

[2] Added by Not. No. 491/VIII-C-172, dated 17th December, 1964

[3] Added by Not. No. 22/VIII-C-141, dated 08.09.1977

[4] Added by Not. Dated 22nd August, 1970

[5] Added by Not. No. 2/VIII-C-141, dated 5th January, 1972

may, after the disposal of the writ petition and after the expiry of the period allowed for filing special appeal/an application for a certificate of fitness for appeal to the Supreme Court or an application made to the Supreme Court itself for special leave to appeal, and in case of special appeal, an application for a certificate of fitness for appeal to the Supreme Court and an application made to the Supreme Court itself for special leave to appeal being filed after their disposal, be returned to the party or his counsel on his making an application in that behalf :

Provided that even during the pendency of the writ petition, special appeal/an application for a certificate of fitness for appeal to the Supreme Court and an application made to the Supreme Court itself for special leave to appeal, an original document accompanying the petition may be returned if a certified copy thereof is supplied and the party or his counsel gives an undertaking in writing that the original shall be produced if and when required by the Court :

Provided further that the copy of the impugned order shall be returned only when the writ petition is itself ordered to be returned.]

Part V—Appeal to the Supreme Court of India

[1]CHAPTER XXIII

Section 'A' - Cases other than Criminal Cases

1. Title of petition.—A petition for certificate of fitness to appeal to the Supreme Court of India shall be entitled:

[In the High Court of Judicature at Allahabad].

Petition for Certificate

Under Article . . . ( ) of the Constitution of India.

Supreme Court Petition No . . . of . . .

2. Contents of petition.—The petition shall contain a brief statement of the case and the grounds of appeal.

[In a case falling under Article 133 (1) of the Constitution, it shall clearly state how it fulfils the requirements thereof.]

In a case falling under Article 132 (1) of the Constitution, it shall state how a substantial question of law as to the interpretation of the constitution is involved.

In a case falling under Article 135 of the Constitution it shall State how appeal lies to the Supreme Court.

3. Copies.—The petition shall be accompanied by a [2][certified] copy of the judgement or final order in respect of which the certificate is sought [3][and a certificate of the counsel that the array of parties is the same as in the case giving rise to the petition and that the Vakalatnama has already been filed.]

This copy shall be for the use of the Court in addition to the copies filed in accordance with the provisions of sub-rule (1) of Rule 11 of Chapter IX and shall be a copy certified to be correct [4][* *] by the Head Copyist [4][* *].

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[1] Subst. by Not. No. 456/VII-C-157, dated 10.10.1969

[2] Subst. by Not. No. 48/VIII-C-157, dated 25.01.1975

[3] Added by Not. No. 239/VIII-C-157, dated 09.04.1975

[4] Omitted by Not. No. 239/VIII-C-157, dated 09.04.1975

4. Limitation.—Article 132 of the Schedule of Limitation Act, 1963, shall, subject to the provision of any law for the time being in force, also apply to a petition for a certificate under Articles 132 (1), 133 (1) or 135 of the Constitution.

5. Notices.—(1) In connection with a Supreme Court appeal, the following notices shall be issued, namely-

(a) notice of petition for a certificate;

(b) notice of judgement of petition of appeal in the Supreme Court;

(c) notice for deposit of cost of transmission of record; and

(d) notice of dispatch of record to the Supreme Court.

No other notice shall be necessary unless expressly provided for in these rules or ordered by the Court.

(2) Service of notice upon the Advocate on Record of the Appellant in the Supreme Court shall be deemed sufficient service under this Chapter. In other cases, where a party had appeared by an Advocate service of notice on such Advocate shall be deemed to be sufficient service.

(3) No process fee shall be levied in the case of notice under Clauses (b), (c) or (d) of sub-rule (1) where it may be served upon an Advocate.

6. Presentation of petition for certificate.—The petition shall be presented before the Registrar. Where the Registrar finds that the petition is in order, has been presented within time and is accompanied by the requisite papers, he may direct notice of petition for grant of certificate to be issued.

7. Removal of defects.—Where the Registrar finds that the petition is not in order or is not accompanied by the requisite papers, he may either return it or may, subject to the provisions of these rules or any other law, receive it granting time for removal of the defect; provided that the time to be so granted shall not exceed the period prescribed by the Limitation Act, 1963 for such petitions. In other cases, he shall lay the case before the Court for orders.

8. Hearing of petition.—Soon after the notice of petition has been served on the opposite party, the petition shall be listed before the Bench for final hearing.

9. Disposal of petition.—Such applications shall be heard and disposed of by a Judge sitting alone where leave is sought from judgment, final order or decree passed by a single Judge and, in other cases, by a Division

bench. As far as possible such applications shall be laid before the single Judge or Bench which passed the judgment, or final order or decree.

10. (a) Service of notice of lodgement of petition.—On receipt from the Supreme Court of the copy of the petition of appeal, a notice of lodgement of the petition of appeal shall be served on the respondent and as soon as the notice is served a certificate as to date or dates on which the said notice was served shall be sent to the Supreme Court.

(b) Cost of transmission of record and balance to be refunded on an application.—Unless otherwise ordered by the Supreme Court, a notice shall issue to the appellant requiring him to deposit within a week from the date of service of this notice a sum of rupees ten on account of costs of transmission of record to the Supreme Court provided that, after meeting the cost of transmission of the record of the Court below as well as this Court, the balance, if any, shall be refunded to the appellant, on an application in this behalf being made by him.

Default to be reported to Supreme Court.—Any default on the part of the appellant to deposit the amount to cover the cost of transmission of the record as above shall be reported to the Supreme Court for orders; and

(c) Summoning of record.—The record and proceedings of the case shall be summoned from the Court below, if the same are not already in the High Court.

(i) Filing of list of documents.—On receipt of the records a notice shall issue to the appellant calling upon him to file, within four weeks of the service upon him of the said notice a list of documents which he proposes to include in the paper book, after serving a copy thereof on each of the respondents. The appellant shall produce an acknowledgement in writing from each of the respondents that a copy of the list has been served on him.

(ii) Contents of notice to respondent.—The notice to the respondent under sub-rule (a) of Rule 10 shall also intimate to him the fact that a notice has already been issued to the appellant for filing the list of documents, and requiring firm (the respondent) to file, within three weeks from the service of a copy of the list on him by the appellant, a list of such additional documents as he desires to be included in the paper book.

11. (i) Inclusion of records.—Where the decision of the appeal is likely to turn exclusively on a question of law, the appellant may apply for inclusion of such parts only of the record as may be necessary for the dis-

cussion of the same.

(ii) List to accompany application.—The application mentioned in sub-rule (i) shall in a case in which a printed record has already been prepared for the use of this Court, be accompanied by;

a list of documents already printed but considered as not relevant to the subject-matter of the appeal;
a list of documents printed on behalf of the opposite party and included in the list under Clause (i); and
a list of documents not already printed but the printing of which is considered essential for the prosecution of the appeal, a short note being entered against each document in the list showing in what respect its inclusion is essential.

The petitioner shall serve copies of these lists on the Advocate for the opposite party.

12. Settling of index.—After the expiry of the time fixed for the list of additional documents by the respondent, the case shall be listed before the Registrar for the settlement of the list (hereinafter referred to as the Index) of documents to be included in the transcript of the record of appeal and shall notify the same on the notice board of the Court. No separate notices will be issued to the parties or their Advocates. In settling the index, the Registrar as well as the parties concerned shall endeavour to exclude from the record all documents that are not relevant to the subject-matter of the appeal and generally to reduce the bulk of the record as far as practicable.

13. Procedure where respondent objects to inclusion of document.—Where the respondent objects to the inclusion of a document on the ground that it is not necessary or is irrelevant and the appellant nevertheless insists upon its inclusion, the transcript of the record as finally prepared shall, with a view to subsequent adjustment of costs of or incidental to the printing of the said document, indicate in the index of the transcript or otherwise the fact that the respondent has objected to the inclusion of the document and that it has been included at the expense of the appellant.

14. Procedure where appellant objects to inclusion of documents.—Where the appellant objects to the inclusion of a document on the ground that it is not necessary or is irrevalent and the respondent nevertheless insists upon its inclusion, the Registrar, if he is of the opinion that the document is not relevant, may direct that the said document be included separately at the expense of the respondent and require the respondent to deposit within such time as he may prescribe the necessary charges the-

reof. If the amount so deposited is found insufficient the Registrar may call upon the respondent to deposit additional amount or amounts within such further time as he may deem necessary. The question of the costs thereof will be dealt with by the Supreme Court at the time of the determination of the appeal.

15. Estimate of costs of the preparation of the transcript of record, etc..—As soon as the index of the record is settled, the Registrar shall cause an estimate of the costs of the preparation of the transcript of the record (and of printing or cyclostyling the record, where it is required to be printed or cyclostyled) to be prepared and served on the appellant and shall require him to deposit within thirty days of such service the said amount. Such costs shall include the costs of translation, if any. The appellant may deposit the said amount in lump sum or in such installments as the Registrar may prescribe.

16. Where record is printed for High Court appeal, no fresh transcript necessary.—Where the record has been printed for the purpose of the appeal before the High Court and sufficient number of copies of the said printed record is available, no fresh transcript of the record shall be necessary except of such additional papers as may be required.

17. Registrar may call for additional deposit made is insufficient.—If at any time during the preparation of the transcript of the record (or printing or cyclostyling of the record, where it is required to be printed or cyclostyled) the amount deposited is found insufficient, the Registrar shall call upon the appellant to deposit such further sum as may be necessary within such further time as may be deemed fit but not exceeding 8 days in the aggregate.

18. Procedure on appellant making default in making deposit.—Where the appellant fails to make the required deposit, the preparation of the transcript of the record (and the printing or the cyclostyling of the record, where the same is required to be printed or cyclostyled) shall be suspended and the Registrar shall not proceed therewith without an order in this behalf of the Supreme Court.

19. (i) Record not to be printed unless ordered by the Supreme Court.—Unless the Supreme Court so directs the record shall not be printed or cyclostyled in this court.

(ii) Rules regarding printing and cyclostyling.—Where the Supreme court directs that the record be printed or cyclostyled in this court the same shall be printed or cyclostyled in accordance with the rules in the First

Schedule to the Supreme Court Rules, 1966.

(iii) Record may be cyclostyled if consisting less than 200 pages.— Where the appeal paper-book is not likely to consist of more than 200 pages, the Registrar may, instead of having the record printed, have it cyclostyled.

(iv) Number of copies for the use of the Supreme Court.—Unless otherwise directed by the Supreme Court, at least 20 copies of the record shall be prepared for the use of the Supreme Court.

(v) Number of copies for the parties.—Unless party informs its requirements before the printing or the cyclostyling is undertaken, each party shall be entitled to three copies of the record for its use.

20. Translation of papers.—All documents included in the list which are not in English and are not already translated shall be translated into English. All such translations shall be made or certified as correct by one of the court translator.

21. (i) Transcript of the record to be transmitted to Supreme Court within six months.—The Registrar shall, within six months from the date of the service on the respondent of the notice of the petition of appeal, transmit to the Supreme Court in triplicate a transcript in English of their record proper of the appeal to be laid before the Supreme Court, one copy of which shall be duly authenticated by appending to certificate to the same under his signature and the seal of this High Court. If for reason the same cannot be transmitted within the period of six months mentioned above, the Registrar shall report the facts to the Supreme Court and obtain necessary extension of time for transmitting the same.

(ii) Certificate of expense to be appended to the transcript or forwarded separately.—The Registrar shall also append to the transcript of the record or separately forward a certificate, showing the amount of expenses incurred by the parties concerned for the preparation and the transmission of the transcript of the record.

22. Form of notice of transmission of the transcription to the parties.—When the transcript has been made ready, the Registrar shall certify the same and give notice to the parties of the certification and the transmission of the transcript of the record (or of the printed or cyclostyled record, where it is required to be printed or cyclostyled record) and thereafter shall send a certificate to the Supreme Court as to the date or dates on which the notice has been served on the parties in form No. X of Schedule A appended to this Chapter.

23. Procedure regarding investigation of pauperism of applicants to Supreme Court.—When an order of the Supreme Court directing investigating into the pauperism of an appellant is received, it shall be laid before the court for orders as to whether the necessary enquiry in the matter is to be made by the Court itself or by a subordinate court. In the latter case the court shall, while forwarding the findings of the subordinate court to the Supreme Court record its own opinion therein.

24. Notice to appellant where special leave granted by the Supreme Court.—As soon as certified copy of the order of the Supreme Court granting special leave to appeal has been received by the Court, the Registrar shall give immediate notice thereof to the appellant.

25. Application of Rules in this Chapter and Order XLV of the Code to cases in which special leave has been granted.—Subject to such special directions as may be given by the Supreme Court the provisions of the rules contained in this Chapter and Order XLV of the Code of Civil Procedure shall, so far as may be and with such modifications and adaptations as may be found necessary apply to a case in which special leave to appeal has been granted by the Supreme Court.

26. Suits on death of party by or against minor.—Where any party to the petition dies before the certificate is granted the provisions contained in Rules 1 to 6 and 9 of Order XXII and Order XXXII of the Code shall, so far as may be and with necessary modifications and adaptations, apply.

27. Taking of evidence in case of dispute as to legal representative.—Where it becomes necessary to take evidence in order to determine whether any person is or is not proper person to be substituted, or entered, on the record in place of, or in addition to, the party on record, the court may either take such evidence itself or direct any lower court to take such evidence and to return it together with its findings and reasons and take such findings and reasons into consideration in determining the questions.

Section 'B' - Criminal Cases

28. Applications for a certificate under Art. 132 (1) or Art. 134 (1) (c) of the Constitution.—An application for a certificate under Art. 132 (1) or 134 (1) (c) of the Constitution in criminal proceedings shall be made in writing, stating the grounds on which the leave is sought, within sixty days from the date of the judgment, final order or sentence passed by the court. The provisions of Secs. 4 and 5 of the Limitation Act, 1953 shall apply to such an application and the remaining provisions shall not apply.

In computing the period of limitation prescribed in the preceding paragraph, the time requisite for obtaining a copy of the judgment, final order or sentence passed by the court shall be excluded.

Such application shall be heard and disposed of by a Judge sitting alone where leave is sought from the judgment, final order or sentence passed by a single Judge and in other cases by a Division Bench. As far as possible such application shall be laid before the single Judge or Bench which passed the judgment, final order or the sentence :

[1][Provided that where the applicant has been sentenced to a term of imprisonment the application shall not be entertained until the applicant has surrendered and in proof thereof has filed a certificate either of the Magistrate before whom he has surrendered or of the Superintendent of Jailor of the Jail in which he has been lodged unless the court on a written application for that purpose orders otherwise. Where the application for a certificate is accompanied by such an application both the applications shall be listed together before the court.]

29. Intimation of application to Sessions Judge.—As soon as an application for grant of a certificate under Art. 134 of the Constitution of India from or on behalf of the condemned prisoner is received the fact shall be notified to the Sessions Judge concerned to enable him to defer execution of the sentence of death. Intimation will again be sent to the Sessions Judge when application is finally disposed of.

30. Appeal to Supreme Court on cases covered under Section 426, Cr.P.C.—(1) On the applicants executing a bond with or without sureties undertaking to lodge an appeal in the Supreme Court within prescribed time, the Court may-

(1) in a case covered by Section 426 (2-A) of the Code of Criminal Procedure order that the appellant be released on bail for a period sufficient in the opinion of the court to enable him to present the appeal and obtain the order, of the Supreme Court under Section 426(1);

(2) in cases under Section 426(2-B) order that pending the appeal, the sentence or order appealed against be suspended and also if the applicant is in confinement, that he be released on bail;

Provided that a person applying under Section 426 (2-B) shall make an averment to the effect that he has not made a similar application to the Su-

[1] Added by Not. No. 455/VIII-C-157, dated 30.09.1970

preme Court.

(2) No application for bail or suspension of sentence or order shall be entertained unless the applicant has surrendered himself in court and has noted the fact in his application.

(3) Where the application is by the State, no such bond shall be required before an order under this rule is made.

(4) A certified copy of the order under Section 426 (2-B) granting bail on suspending operation of the sentence or order appealed against shall be transmitted to the Registrar, Supreme Court without delay.

31. Preparation and upkeep of transcripted records.—After the appeal has been lodged in the Supreme Court and copy of the petition of appeal has been received from the Registrar of that court, the Registrar shall, with all convenience spend, cause a transcript of the record to be prepared keeping in view the period within which copies of the record are required to be dispatched to the Supreme Court in cases falling under Art. 134 (1) (a) and (b) of the Constitution.

32. Notice of dispatch of record.—As soon as the requisite number of copies of the transcript and the record have been dispatched to the Supreme Court, the Registrar shall give notice thereof to the parties.

33. Application of certain rules in Section 'A'.—Rules 3, 5, 19 and 20 of Section 'A' shall with such modifications and adaptations as may be found necessary, also apply to appeals to the Supreme Court in criminal matters.

Section 'C' - Supreme Court Decrees

34. Enforcement of Supreme Court decrees.—The enforcement of decrees passed or decrees made by the Supreme Court shall be made in accordance with the provisions contained in the Supreme Court (Decree and Orders) Enforcement Order, 1934, reproduced in the Appendix to this Chapter.

Part VI - Legal Practitioners - Chapter XXIV to XXVI

CHAPTER XXIV

[Rules Framed Under Section 34 (1) read with Section 16 (2) of the Advocate's Act, 1961]

[Rules Framed Under Section 34(1)]

[Rule 01 to Rule 10 is repealed By *"The Designation of Senior Advocate Rule, 2018"* Noti. no. 368/UHC/Admin.A/2018, w.e.f. 30.11.2018]

11. Appearance of advocate after committing contempt.—[1]**[(1) The** Chief Justice may prohibit any Advocate involved or engaging in strike or otherwise interfering with the Administration of Justice, from practicing in the High Court or any Court subordinate thereto and the District Judge may prohibit such an Advocate from appearing in his Judgeship for the period specified in the order, however, such an advocate aggrieved by the order of the District Judge may represent to the Chief Justice.

Explanation—Strike resorted to in any Court or abstention from work in Court, by way of protest by an Advocate or group of Advocates or any Bar Association shall be deemed to be an act, which tends to interfere with the Administration of Justice.

(2) The High Court, initiating proceedings for criminal contempt against an Advocate, may prohibit such an Advocate, from practicing in the High Court or in any Court subordinate thereto during the pendency of contempt proceedings against him.

(3) The High Court convicting an Advocate for criminal contempt may prohibit him from practicing in the High Court and any Court subordinate thereto, for the period specified in the order.

Provided that before passing an order of debarment, the Court shall put the concerned Advocate to notice of the proposed action.

(4) Notwithstanding the provisions of sub-rule (3), the Chief Justice may prohibit an Advocate found guilty of criminal contempt, from practic-

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[1]*Substituted by Notification No. 297/UHC/Admn.—A, 2019, dated 06.11.2019. earlier it read as follows—*

No advocate who has been found guilty of contempt of Courts shall be permitted to appear, act or plead in any Court unless he has purged himself of contempt, either by tendering apology which is accepted or by suffering punishment imposed on him or where, in any case on an appeal, a stay order is in operation.

ing in the High Court or any Court subordinate thereto and the District Judge, in like manner, may prohibit an Advocate from practicing in his Judgeship, for the period specified in the order.

(5) In the event, a Senior Advocate is prohibited from practice under any of the preceding sub-rules, his designation as Senior Advocate, shall be deemed to be suspended, from the date of the order, till the expiry of the period of prohibition prescribed.

Provided that the suspension of designation as Senior Advocate will not bar the High Court from cancelling his designation as Senior Advocate.

(6) The powers exercisable under sub-rules (2), (3) and (4) above, shall be in addition to the powers inherent in the High Court under the Contempt of Courts Act, 1971.]

[1]{12. (repealed)}

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[1] repealed by Noti. no. 368/UHC/Admin.A/2018, w.e.f. 30.11.2018

[1][CHAPTER XXV…..OMITTED]

Pleaders and Mukhtars

[2][CHAPTER XXVI

Allahabad High Court Advocates' Clerks (Registration and Conduct) Rules, 1997

1. Short title and commencement.—(1) These rules may be called the Allahabad High Court Advocates' Clerks (Registration and Conduct) Rules, 1997.

(2) They shall come into force with effect from the date of their publication in the Gazette.

CHAPTER I

General

2. Definition.—In these rules, unless the context otherwise requires-

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[1] Omitted by Notification No. 84/VIII-C-2 (C.S. No. 217), dated 16.02.1990, published in the U.P. Gazette Part II, dated 20.04.1991.

[2] Amended by Not. No. 511/III-d-1, dated 01.09.1998

(a) *'Advocate'* means an Advocates as defines in the Advocates' Act, 1961;

(b) *'Advocate's Clerk'* means a clerk of an advocates registered or empanelled under these rules;

(c) *'competent authority'* means the Registrar of the High Court or any person nominated by the Registrar to perform the functions of Competent Authority under these rules;

(d) *'Court'* means the High Court of Judicature at Allahabad as constituted by the U.P. High Court's (Amalgamation) Order, 1948;

(e) *'Registrar'* means Registrar of the Court as defined in Rules of the Court, 1952;

(f) *'Roll'* means the Roll of Advocates Clerks prepared and maintained under these Rules.

3. Preparation and maintenance of Roll.—(1) The competent authority shall prepare and maintain a roll in which-

(i) the names of persons working as clerks of advocates on the date of commencement of these rules; and
(ii) the names of persons who are engaged, after the commencement of these rules, as clerks to advocates shall be entered.

(2) The Roll shall contain the following details of an advocates clerk-

(a) his name and address;
(b) his age;
(c) his passport size recent photograph;
(d) his date of engagement ; and
(e) the name of advocate with whom he is engaged.

4. Prohibition to work as clerk.—No person shall act as a clerk of more than one advocate, and unless his name is entered in the Roll.

5. Qualifications for an Advocate's Clerk.—Subject to the provisions of the rules, a person shall not be qualified to be registered as an Advocate's Clerk unless he-

(a) is a citizen of India;
(b) has completed the age of 21 years;

[1](c) has passed Intermediate examination or an examination equivalent thereto;

(d) has proficiency in Hindi and English languages.

[2][(e) has worked for atleast two years with any Advocate in the High Court and possesses certificate issued by the Advocate.

Provided that clauses (c), (d) and (e) shall not be applicable to a person who is already registered as Advocate's clerk on the date of the publication of these rules in the Gazette.

6. Disqualification for enrolment.—(1) No person shall be registered as an Advocate's clerk-

(a) if he is convicted for an offence involving moral turpitude or implying a defect of character;

(b) if he is an undischarged insolvent;

(c) if he has ever been declared a tout;

(d) if he is suffering from any contagious or infectious disease.

CHAPTER II

Procedure for Preparing the Panel for Registration of Clerks

7. Preparation of Panel.—[* * *][3]

8. Terms and conditions of engagement.—The retainer of an advocate's clerk shall not be less than Rs. 750 per mensem. Other terms and conditions of engagement shall be such as may be mutually agreed upon between him and the advocate concerned, and shall in all respects be regulated by the provisions of these Rules and instructions issued by the Registrar from time to time.

9. Application for registration on roll.—(1) When any person[4][* * *], is engaged by an Advocate to work as his clerk, such person shall make an application to the competent authority in writing giving the following details:

(i) full name and address;

(ii) date of birth;

(iii) name, complete address and enrolment number of the advocate

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[1]Substituted vide No. 206/UHC/Admn. -B, 2009 dated: November 18,2009.

[2] Substituted vide Notification No. 92/UHC/Admn.-A-2003, dated 22nd May, 2003

[3] Deleted by Notification No. 92/UHC/Admn.—A-2003, dated 22nd May, 2003

[4] Deleted by *Notification No. 92/UHC/Admn.—A-2003, dated 22nd May, 2003*

who has engaged him;

(iv) date of engagement ;

(v) three copies of recent passport size photograph

(vi) serial number at which his name appears in the panel.

(2) The application shall contain a declaration that the applicant does not suffer from any disqualification under Rule 6.

(3) The application shall be accompanied by a certificate from the registered advocate's clerk under whom the applicant worked for one year certifying that he has acquired working knowledge of the rules and practice of court, can read and write Hindi and English well, and can maintain accounts.

(4) The application shall also contain a certificate from the advocate who has engaged the applicant that such advocate has engaged the applicant to work as his clerk; that his retainer while in engagement shall not be less than Rs.750 per mensem; that he is honest and bears good character, and that the particulars given in the application are correct.

(5) If, on examination, the competent authority finds the application to be in order, it shall enter the name of applicant in Roll :

Provided that on any given time not more than four advocates' clerk shall be registered for one advocate.

10. Registration of fee.—(1) An application for registration under Rule 9 shall be accompanied by a fee of rupees one hundred; and a renewal fee of rupees twenty five shall be payable by January 31st for each subsequent Calendar year failing which the competent authority shall remove the name of the advocate's clerk from the Roll.

(2) Where the name of a clerk has been removed from the register under the preceding paragraph, his name shall not be registered again unless he pays the renewal fee of rupees fifty alongwith the arrears and an extra sum of rupees twenty per year (or fraction of a year) for the period of default by way of penalty :

Provided that the competent authority may, if satisfied, for good and sufficient reasons by affidavit or otherwise, waive the penalty for the period or part of the period during which he ceased to work as a registered clerk in the court.

11. Removal of the name from the roll or panel.—The competent authority may remove from the Roll or Panel, as the case may be, the

name of a person who is dead or who has incurred a disqualification as mentioned in Rule 6, or who is found guilty of any misbehaviour or false declaration or fraud or suppression or misrepresentation or grossly improper conduct in discharge of his professional duties or breach of any provision of these rules, or censured by court, or from whom a request has been received to that effect or in respect of whom an order of removal of his name from the Roll has been passed in accordance with these rules, or for any other good and sufficient cause, such as termination of the engagement with an advocate.

CHAPTER III

12. Acts which a registered clerk may perform.—(a) A registered clerk shall not make any motion or advance an argument in court nor shall he swear an affidavit as *pairokar* of a litigant unless authorised by general or special power of attorney of the litigant. The power of attorney will not be insisted where an application is made for restoration/recall of the order on a case which has been dismissed in default/disposed of *ex parte* in the absence of the counsel. He may act in matters of a routine nature which do not require the personal attendance of the Advocate and may do the following acts, namely-

(1) receiving notice on behalf of the advocate or application with whom he is registered;

(2) obtaining report on an appeal or application from the Stamp Reporter of the court or the Registrar;

(3) presenting an appeal or application before the Reader of the court or the Registrar;

(4) obtaining office report on an application for adjournment.

(5) taking back an appeal or application filed before the Registrar if found defective or returned by him for presentation in Court.

(6) presenting to the Registrar or the competent authority an application signed by the advocate with whom he is registered for-

(a) copy of document;
(b) inspection of record,
(c) return of document,
(d) refund of surplus balance,
(e) translation and printing, or
(f) transliteration or translation of document or the verification of such

transliteration or translation;

(7) taking notes from the deficiency report of the Stamp Reporter and filing the necessary stamps;

(8) inspecting record, if authorised by his master and sanctioned by the court;

(9) depositing money and paying court-fees;

(10) receiving paper-book, certified copies, etc.;

(11) filing Vakalatnama or retainer's slip or certificate of fee; or

(12) identifying person inspecting record with him or swearing affidavit :

Provided that a registered clerk shall always write his registration number below his signatures.

The acts set out in this rule, in cases in which the State is a party, may be performed by such clerk of the office State Law Officers as may be authorised in this behalf by the Government Advocate or the Standing Counsel. Such clerks shall nor exceed four in number at any time and their name shall be communicated to the Registrar or competent authority.

(b) An advocate's clerk shall not do any act for any advocate other than the one with whom he is registered. Such conduct will be deemed to be misbehaviour for the purpose of Rule 11 and misconduct for the purposes of Rule 14 of these Rules.

13. Identity card, dress and name plate.—(i) The Registrar or competent authority shall issue an Identity Card to every Advocate's Clerk entered on the roll.

(ii) Every Advocate's clerk shall carry the identity card on his person when he visits any Court or office of the Court and shall be obliged to show it to any Officer of the Court on demand.

(iii) Any person who ceases to be an Advocate's clerk shall surrender the identity card to the competent authority.

(iv) In case the identity card is lost or mutilated, a fresh identity card shall be issued by the competent authority on the application of the Advocate's clerk which shall be accompanied by two recent photographs and a fee Rs. 50.

(v) In the discharge of his duties every advocate's clerk shall wear

black coat or Shervani with a name plate/tag exhibiting his name and registration number above the left chest-pocket.

CHAPTER IV

Conduct of Advocates' Clerk

14. Punishment to Advocates' Clerk for misconduct.—(1) Where on receipt of a complaint or otherwise the Registrar or competent authority has reason to believe that any Advocate's clerk has committed professional or other misconduct, it shall appoint an enquiry officer to conduct an enquiry into the complaint.

(2) The Enquiry Officer shall, after giving a reasonable opportunity of being heard to such advocate's clerk, conduct an enquiry and submit his report to the Registrar or competent authority.

(3) The Registrar or competent authority on receipt of the report of the Enquiry Officer and after giving the Advocates' clerk concerned an opportunity of making written submissions against the report of the enquiry officer and of oral hearing, if prayed for, may pass any or more of the following order, namely-

(a) removal of name from the roll or panel,

(b) Imposition of fine which may extend to rupees five hundred, or

(c) Suspension of registration for such period as he may deem fit.

(4) Where registration is suspended, such advocates' clerk shall during the period of suspension, be debarred from acting as a clerk and from doing any act permissible under these Rules.

(5) In an enquiry under this rule, the clerk shall have no right to be represented by an advocate without leave of the Chief Justice.

(6) A clerk may be suspended in contemplation of or during the pendency of an enquiry under this Rule by the Registrar or competent authority.

During the period of such suspension the clerk shall not be entitled to perform any function enumerated in Rule 12.

15. Representation to the Judge appointed by Chief Justice.—(1) Any person aggrieved by an order of the Registrar or competent authority under sub-rule (3) of Rule 10 may, within sixty days of the date of communication or notification of the order to him or notification thereof on the

notice board of the office of the Registrar, which ever is earlier, make a representation to the Judge appointed by the Chief Justice for the purpose :

Provided the Judge may, for good and sufficient reasons, condone the delay and entertain the representation after expiry of the period of limitation.

(2) The Judge may make such order on the representation as he may deem fit, and such order shall be final.

(3) Such representation shall contain all submissions intended to be made by the aggrieved clerk in a dignified language, and shall be accompanied by documents relied upon by him or Photostat copies thereof.

(4) It shall not be necessary to hear the representationist in person or through counsel in support of the representation.

16. The Rules contained in Chapter XXVI of Rules of Court, 1952 shall repealed from the date on which these rules come into force.

Special Provisions

CHAPTER XXVII

[References under the Income Tax Act, 1961 and Other Acts Including Revisions Under Sales Tax Acts]

1. Title of application.—An application under sub-section (2) of Section 256 of the Income Tax Act, 1961 [1](hereinafter referred to in this Chapter as 'the Act) shall be entitled :

In The High Court of Judicature at Allahabad

Income Tax Case No. ..... of sub-section (2) .....

[1][Under (.....) Section 256 of the Income-tax Act, 1961.]

..... Applicant

Versus

..... Opposite Party

2. Array of parties.—In an application presented on behalf of the assessee the opposite party shall be the Commissioner of Income Tax and in an application presented on behalf of the Commissioner of Income Tax, the assessee.

3. Application and affidavit under [2][Section 256(2) of the Act.]— (1) Application under sub-section (2) of [1][Section 256] of the Act shall state in precise language question of law upon which the Appellate Tribunal is required to make a reference to the Court and contain a concise statement of the material facts out of which it arises. The application shall be accompanied by the copies of the application [1][under sub-section (1) of Section 256 of the Act] order of the Appellate Tribunal refusing to state the case, the order of the Appellate Tribunal under [3][sub-section (1) of Section 254] of the Act, the order of the Appellate Assistant Commissioner and the order of the Income Tax Officer :

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[1] Subs. Vide noti. no. 18/VIII-C-127, dated, 23.10.1970

[2] Subst. by Not. No. 18/VIII-C-127, dated 23.01.1970

[3] Ins. By Not. No. 492/VIII-C-127, dated 17.12.1964

[1][Provided that the copies of the order of the Appellant Assistant Commissioner and/or the order of the Income Tax Officer may be true copies certified to be correct by the Advocate for the applicant or verified to be true by an affidavit of the applicant.]

(2) [2][Deleted]

(3) An application under sub-rule (1) [3][* * *] shall, where the circumstances so require, be also accompanied by an affidavit.

4. Presentation of application.—The application shall be accompanied by two copies thereof as well as the affidavit, if any, filed under Rule 3 (3) and shall be presented before the Registrar, [4][It shall bear an office report under Rule 3 of Chapter XI as far as it may be applicable]. The application shall be numbered and registered as a Miscellaneous Case :

[5][Provided that where more than one application are filed together, the Registrar may dispense with the filing of copies of orders common to all of them in cases where they are filed in one of the applications.]

[6]**[5. Certain conditions for an affidavit.—**(1) An application made by an assessee shall be accompanied by an affidavit of service stating that two copies of the application together with other papers or affidavit accompanying it have been served on the Standing Counsel authorised to receive notice on behalf of the Department concerned, and further stating that the Standing Counsel has been intimated the date of filing in Court of the application.

(2) An application made by the Commissioner of Income Tax shall normally be accompanied by an affidavit of service stating that a copy of the application together with other papers and affidavit accompanying it have been served on the assessee in accordance with the procedure prescribed there for by the Income Tax Act, 1961, and also stating that the assessee has been intimated in writing the date of filing in Court and the date of hearing of the application :

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[1] Added by Not. No. 652/VIII-C-127, dated 08.07.1976

[2] Deleted by Not. No. 18/VIII-C-127, dated 23.01.1970

[3] Deleted by Not. No. 652/VIII-C-127, dated 08.07.1976

[4] Added by ibid

[5] Added by ibid

[6] Subst. by ibid

Provided that if due to lack of time or other sufficient reason the affidavit of service does not accompany the application filed by the Commissioner of Income Tax, the aforesaid affidavit must be filed within three weeks of the date of institution of the application.

(3) A counter affidavit, if any, may be filed within two weeks of the service of the application after serving a copy thereof on the counsel for the applicant, a rejoinder affidavit may similarly be filed in another one week.]

6. Application to be heard by a Division Bench specially constituted.—Unless otherwise ordered by the Chief Justice, the Registrar shall direct that the application be laid before the Division Bench appointed by general or special order by the Chief Justice to hear applications under this Chapter [1][immediately after the expiry of six weeks of the date of institution, along with counter and rejoinder affidavits, if any, received] (or if the Court is not sitting on that day, the next working day). [2][* * *]

[3][**7. Defective application to be listed within a week.—**The Registrar shall list a defective application (e.g. deficiently stamped or barred by time, etc.) for orders before the Division Bench appointed by general or special order by the Chief Justice to hear applications under this Chapter, within a week of its institution.]

[3][**8. Bench may direct fresh notice.—**The Bench may, in any case, direct that the service of the application may be effected afresh on the opposite parties or any of them.]

9. [4][* * * *].

10. Advocates to accept service of notice.—Advocates for the parties shall be bound to accept service on behalf of the party represented by them of any notice issued by the Court or the Appellant Tribunal, as the case may be, or of copies under [5][Rule 5], [6][* * *] until the case has been finally disposed of.

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[1] Subst. by Not. No. 652/VIII-C-127, dated 08.07.1976

[2] Deleted by ibid

[3] Added by ibid

[4] Deleted by Not. No. 88/VIII-C-127, dated 15.03.1971

[5] Subst. by ibid

[6] Deleted by Not. No. 652/VIII-C-127, dated 08.07.1976

Any change of Advocates appearing for a party shall immediately be notified by it to the Court, the Appellate Tribunal and the opposite party.

11. Orders on application.—On the date fixed for the hearing of the application, the Court may after hearing the parties, if they appear, either pass an order dismissing it or, in the case of an application under [1][sub-section (2) of Section 256] of the Act, require the Appellate Tribunal to state the case and to refer it to the Court [2][* * *].

12. Form of reference by Appellate Tribunal.—The statement of a case referred to the Court by the Appellate Tribunal shall indicate the precise question of law arising in the case and concisely state such facts as may be necessary to enable the Court to decide it. It shall also contain references to all such documents as may be necessary to enable the Court to decide the question and shall be accompanied by copies of such documents or relevant extracts therefrom.

The statement may include more than one question of law arising in a case.

13. Notice of reference by Appellate Tribunal.—On receipt of the statement of a case referred to the Court by the Appellate Tribunal under sub-section (1) or (2) of Section [3][256] of the Act, notice thereof shall be given to the parties and the Registrar shall call upon the party at whose instance the reference has been made to prepare or cause to be pared [4][through Court] a paper book of the case within [5][four weeks from the date fixed for entering appearance.] The Registrar may for sufficient cause shown extend such time.

[6][**13A. Listing of cases before the Bench.—**Where the party concerned fails to prepare or cause to be prepared the paper-book within the time allowed by the Registrar under the next preceding rule, the case shall be listed before the Bench concerned and the question referred to the Court may be returned unanswered, unless, on an application in writing made in

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[1] Subst. by Not. No. 18/VIII-C-127, dated 23.01.1970

[2] Deleted by ibid

[3] Subst. by ibid

[4] Added by Not. No. 170/VIII-C-90, dated 24.04.1964

[5] Subst. by ibid

[6] Added by Not. No. 333/VIII-C-127, dated 13.11.1961

this behalf, the Court for sufficient cause shown grants further time for preparation of the paper book.]

14. Paper book.—(1) The paper book shall consist of a flyleaf and a general index and contain copies of the following papers, namely-

(i) application and the affidavit accompanying it, if any;
(ii) reply to the application and the affidavit accompanying it, if any;
(iii) any orders passed by the Court under sub-section (2) of [1][Section 256] of the Act;
(iv) statement of the case and copies of documents or extracts therefrom, if any, forming part of the case;
(v) any objection by a party to the statement of the case;
[2][(v-a) an application made before the Tribunal under Section 256 (1) of the Act;]
(vi) order of the Appellate Tribunal under sub-section [1][(1) of Section 54] of the Act;
(vii) order of the Appellate Assistant Commissioner; and
(viii) order of the Income Tax Officer.

(2) Where the case is referred back to the Appellate Tribunal under [1][Section 258] of the Act, a copy of the statement of the case as added to or altered by the said Tribunal shall also be included in the paper-book.

(3) If any party desires that a copy of any other document be included in the paper-book on the ground that it is necessary for the determination of the question of law referred to the Court, it shall make an application in writing to the Registrar explaining the relevancy of such document. The Registrar shall give notice of the application to the opposite party and may after hearing any objection that may be filed by such party, either reject the application or direct that a copy of such document be included in the paper book.

(4) The paper-book shall, unless otherwise ordered, be a type written one and such number of copies thereof shall be prepared as the Registrar may direct.

[3]**[15. Cost of preparation of paper-book.—**(1) The Registrar shall within two weeks of the filing of the paper-book or of an application for

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[1] Subst. by Not. No. 18/VIII-C-127, dated 23.01.1970

[2] Added by Not. No. 809/VIII-C-127, dated 29.11.1975

[3] Subst. by Not. No. 170/VIII-C-90, dated 24.04.1964

preparing the paper-book through Court, determine the cost of preparing the paper-book and such cost shall be cost in the cause.

(2) Where the paper-book is applied for to be prepared through Court, a copy of the estimate shall forthwith be delivered to the Advocate for the party concerned and the amount shall be deposited within two weeks thereof.

16. Preparation of paper-book.—Where the Registrar directs that the paper-book be prepared under his direction and supervision, the preparation of such paper-book shall not be undertaken unless the party concerned furnishes evidence to the Registrar of his having deposited the cost of preparing it as determined by the Registrar, with the Cashier.

Where the paper-book is prepared by the party concerned it shall bear a certificate signed by his Advocate that the copies included therein are true copies of the documents on record.

17. Hearing of case after preparation of paper-book.—When the paper-book has been prepared the Registrar shall cause copies thereof to be supplied to the parties and thereafter the case shall be listed for hearing before the Bench concerned.

18. Copies of orders passed by Court to be sent to Appellate Tribunal.—Copies of any orders passed by the Court under 261[1][sub-section (1) of Section 256 of Section 258] or any judgment delivered by it der [2][sub-section (1) of Section 260] of the Act shall be sent forthwith to the Registrar of the Appellate Tribunal under the seal of the Court and the signature of the Registrar together with two uncertified copies of the same.

19. Costs.—Costs taxable as Advocates fees shall be determined by the Court having regard to the provisions of Rule 7 of Chapter XVI of these rules.

[3]**[19A. Transmission of order of costs for execution.—**Where costs have been awarded by the Court in a reference or in an application for reference under the Act, but have not been paid, the person entitled to them may apply the Court for execution of the order. The application shall be accompanied by an affidavit stating the amount of costs awarded and the

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[1] Subst. by Not. No. 18/VIII-C-127, dated 23.01.1970

[2] Added by Not. No. 490/VIII-C-127, dated 17.12.1964

[3] Added by ibid

amount remaining unpaid. The Court may direct the order to be sent to the District Court of the district in which the order is to be executed. The order may be executed by such Court or be transferred for execution to any subordinate Court.]

[1][**19B. Cases under Indian Income Tax Act, 1922.—**Case governed by the Indian Income Tax Act, 1922, shall be, and shall continue to be, governed by the rules as they existed before January 1, 1970.]

20. Application of Rules to similar proceedings under other Acts.—The rules contained in this Chapter shall, so far as may be and with necessary modification, and adaptations, also, apply to proceedings of a similar nature [or revisions] under any other [Tax] Act including those under-

(i) section 21 of 66 of the Excess Profits Tax Act, 1940;

(ii) section 19 and 66 of the Business Profits Tax Act, 1947;

(iii) section 11 of the U.P. Sales Tax Act, 1948.

(iv) section 24 of U.P. Agricultural Income Tax Act, 1948;

(v) section 27 of the Workmen's Compensation Act, 1923;

(vi) section 57 or 60 of the Indian Stamp Act, 1899; or

(vii) section 64 of the Estate Duty Act, 1953;

(viii) section 27 of the Wealth Tax Act, 1957;

(ix) section 26 of the Gift Tax Act, 1958;

(x) section 130 of Chapter XV of the Customs Act, 1962;

(xi) section 35-G of the Central Excise and Salt Act, 1944; and

(xii) section 82-B of the Gold (Control) Act, 1968] :

Provided that where a reference may under the law be made by the Court or authority making the reference without an application by a party, the paper-book shall be prepared under the direction and supervision of the Registrar and Rules 15 and 16 shall not apply:

[2][Provided further that no application for revision under sub-section

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[1] Added by Not. No. 490/VIII-C-127, dated 17.12.1964

[2] Added by Not. No. 680/VIII-C-II, dated 26.11.1980

(1) or sub-section (2) of Section 11-A of the U.P. Sales Tax Act, 1948 shall be entertained unless it is accompanied by a treasury challan showing a deposit of two hundred and fifty rupees under the Head "040-Sales Tax-Receipts under the Central-State Tax Act (4) other receipts". No such deposit shall, however, be necessary in the case of an application for revision by or on behalf of the Commissioner of Sales Tax.]

CHAPTER XXVIII

Company Rules

Section A

General

1. Short title and commencement – The Rule contained in the Chapter may be cited as Company Rules.

2. Definitions – In this Chapter, unless the context or subject- matter otherwise requires-

(i) "The Act" means the Indian Companies Act, 1913;

(ii) "Company" means a company in respect of which proceedings have been instituted under the act;

(iii) "Court" means the Court having jurisdiction under the Act;

(iv) "Creditor" includes a corporation and a firm of creditor in partnership;

(v) "Judge" means in the High Court, the judge for the time being exercising the original jurisdiction of the Court in Company matters and in district Court, the District judge;

(vi) "Registrar" for the purposes of Rules 169 and 170 means the Registrar of the High Court or one of the officer of the Court mentioned in Section 196 (9) of the Act, and in a district Court the district judge.

3. General heading – (1) The following shall be used as general heading in all cases under the Act or the Rules contained in this Chapter-

1. For proceeding before the court-

In the High Court of Judicature at Allahabad (or in the district Court of-)

In the matter of the Indian Companies Act, 1913 (Act VII of 1913 and
of .....Limited.

2. For all advertisement, notices and other proceeding not before the Court–

In the matter of the India Companies Act, 1913 (Act VII of 1913) and

of .....Limited.

Where required, the words "and reduced" shall be added to the description of the company.

(2) (i) The first proceeding in every matter under the Act Shall have a distinctive number assigned to it, and shall be designated as "Company Case no.....of.....19..... All proceeding subsequent to the first proceeding shall bear the same number as the first proceeding.

(ii) Any application arising out of a proceeding under the Act shall have distinct number assigned to it and shall be designated as-

"Application no.....of 19.....arising out of ..... Company Case no.....of 19".

4. General power of the Judge.— Notwithstanding anything contained in this Chapter the Judge before whom proceedings are taken may enlarge or abridge the time for doing any act or taking any proceeding under this Chapter.

5. Presentation of petition etc.— (1) In the High Court all petitions shall be presented and application made, in the first instance, to the Judge. Proceedings shall be taken under the direction of the Judge unless the Registered is empowered to dispose of the matter, in which case they shall be taken under the direction of the Registered.

(2) In a district court having jurisdiction under the Act all petitions shall be presented application made to and proceeding taken under this Chapter shall be exercised by such Judge.

6. Affidavit verifying Petition – Every petition presented to the Court under any of the following section of the Act namely, Sections 12, 55, 56, 66A, 105A, 120, 153, 166, 221, 247, 267, or 281 (2) shall be verified by an affidavit made by the petitioner, or one of the petitioners, if more than one or, in case the petitions is presented by the corporation, by some Director, Secretary or other principal officer thereof, Such affidavit shall be sufficient prime facie evidence of the statements in the petition:

Provided that the Judge may, for sufficient cause shown, grant leave to any other person duly authorized by the petitioner to make and file the affidavit.

7. Enclosures to petition. – Unless dispensed with by the Judge, every petition mentioned in column 1 of the appendix to this Chapter shall be

accompanied by the document set opposite thereto in column 2 of the said Appendix.

8. Form of advertisement. –Where an advertisement is required for any purpose, it shall, unless otherwise prescribed by Rules in this Chapter or directed by Judges be inserted once in the official Gazette, and once in two daily newspapers circulating in the locality where the company has its registered office or a principal place of business or assets and liabilities as the case may be.

Section B—Reduction of Capital

9. Mode of application – An application under Section 56 of the Act for an order confirming the reduction of the share of a company shall be made by petition. Such petition shall be in the prescribed form.

10. Application to dispense with "and reduced",- An application under Section 57 of the Act of an order dispensing with the addiction of the words and reduced may be made expert at or after presentation of a petition; provided that the Judge my direct notice to be given of such application or adjourn the consideration thereof as he think fit.

11. Procedure where creditors are not entitled to object.— Where the creditors of a company are not entitled under the provisions of section 38 of the act to object to the proposed reduction, it shall not be necessary to obtain the certificate mentioned in Rule 16 hereafter but on the presentation of the petition the Judge shall fix a day for the hearing thereof and shall give directions as to the advertisement to be published of the petition, so that the first or only insertion of such notice shall be made not less than fourteen days before the date fixed for the hearing. Such notice shall be given in the prescribed form.

12. Procedure where creditors are entitled to object.— Where the creditors are entitled to object to the proposed reduction, the petition shall not come on for hearing until after the expiration of twenty – one clear days from the filing of the certificate mentioned in Rule 16 hereinafter.

13. Proceeding after petition presented- When any such petition as is mentioned in Rule 12 above have been proceeding to be application may be made expert for direction as to the proceeding to be taken for settling the list of creditors entitled to object to the proposed reduction and the Judge may thereupon fix the date with reference to which the list of such creditors is to made out, pursuant to section 58, sub- section (2) of the Act; and may either at the same time or afterwards, as he may think fit, give such direction as are mentioned in the two following Rules. The order

upon such application shall be in prescribed form.

14. Advertisement of petition- Notice of the presentation of the petition shall be published at such times and in such newspapers as the Judge may direct, so that the first insertion of such notice be made not less than one calendar month before the date fixed under Rule 13. Such notice shall be in the prescribed form.

15. Affidavit as to creditors.— The company shall within such time as the Judge may direct, file in court an affidavit made by some officer or officers of the company competent to make the same, verifying a list containing the names and address of the creditors of the company at the date fixed under Rule 13 and the nature and amounts of the debts due to them respectively, or in the case of any debt payable on a contingency or not ascertained, or any claim admissible to proof in a winding up of the company the value, so far as can justly estimated, of such debt or claim.

16. Form of affidavit.— The person making such affidavit shall state therein his belief that such list is correct, and that there was not at the date so fixed as aforesaid any debt or claim which, if that date was the commencement of the winding up on company, would be admissible proof against company, except the debts set forth in such list and shall state his means of knowledge of the matters deposed to in such affidavit. Such affidavit shall be in the prescribed form.

17. Inspection of list of creditors.— Copies of such list, containing the names and addresses of the creditors, and the total amount due to them, but omitting the amounts due to them respectively, or as the Judge may think fit, complete copies of such list shall be kept at the registered office of the company and at the offices of their Advocates and agents, if any, and any person desirous of inspecting the same may, at any time during the ordinary hours of business, inspect and take extracts from the same of payment of the sum of one rupee.

18. Notice to creditors.— The company shall, within seven days after the filing of such affidavit or such further time as the Judge may allow, send to each creditor whose name is entered in the said list a notice stating the amount of the proposed reduction of capital, and the amount of the debt for which such creditor is entered in the said, and the time within which, if he claims to be a creditor for a larger amount, he must sent the name and the address of his Advocate, if any, to the company or its Advocate, if any such notice shall be sent by post in a registered cover addressed to each creditor at his last known addressed or place of abode, and

shall be in the prescribed form;

Provided that if any of the creditors of the company are residing out of India, of if the names of any of the creditors are not known to the company, or if for any special reason the Judge think it expedient, the Judge my direct notice to be given to any creditors or creditors by advertisement or otherwise as he may deem fit.

19. Advertisement as to list of creditors.— Notice of the list of creditors shall, after the filing of the affidavit mentioned in rules 15 and 16, be published at such times and in such newspapers as the Judge may direct. Every such notice shall state the amount of the proposed reduction of capital, and the places where the aforesaid list of creditors may be inspected and the time within creditors of the company whose names are not entered on the said list and who are desirous of being entered therein, must send in their names and addresses and the particulars of their debts or claims and names and addresses or their Advocates, if any, to the company or its Advocate, if any, Such notice shall be in the prescribed from.

20. Creditor for larger amount to notify company.— A creditor entered in the said list who claims to be creditor for a larger amount than that stated therein shall send his name and address and a particulars of his debt or claim, and the name and address of his Advocate, if any, to the Advocate of the company, within the time stated in such notice, being not more than fourteen days from the date of the notice or such further time as the Judge may allow.

21. Affidavit as to result of notice under Rules 18 and 19.— The company shall within such time as the judge may direct, file in court an affidavit made by the person to whom the particulars or debts or claims are by the notices mentioned in Rules 18 and 19 above require to be presented, stating the result of each of the aforementioned notices respectively, and verifying a list containing the names and addresses of the person, if any who have sent in the particulars of the debts or claims in pursuance of such notices and the amounts of such debts or claims, and a competent officer of the company shall join in such affidavit proving the dispatch and publication of such notice and shall in such list distinguish which of such debts and claim, if any are wholly, or as to any and what part thereof, admitted by the company and which if any of such debts and claims are wholly, or as to any and what part thereof, disputed by the company. Such affidavit shall be in prescribed from.

22. Proceeding where claim not admitted.— If any debt or claim, the particulars of which are so sent in, shall not be admitted by the company at

its full amount, then in every such case, unless the company is willing to set apart and appropriate in such manner as the judge shall direct the full amount of such debt or claim, the company shall send to the creditor a notice that he is required to come in and prove such debt or claim, or such part thereof as is not admitted by the company, by a day to be therein named, being not less than fourteen clear days after such notice, and being the day appointed by the Judge for adjudicating upon such debts and claim. Such notice shall be sent in the manner mentioned in Rule 18 above and shall be in the prescribed form. The affidavit of the creditor in proof of his debt or claim shall be in the prescribed form.

23. Cost of proof.—Such creditors as prove their debts or claims in pursuance of the notice issued under Rule 14 Shall be allowed their costs of proof against the company and such costs shall be added to their debts. The said creditors may answerable for costs in the event of their failing to prove their debts or claims.

24. Certificate as to creditors. – The result of the settlement of the list of creditors shall be stated in a certificate which shall prepared by the Advocate of the company and signed by the registered. Such certificating shall state (1) what debts or claims, if any, have been disallowed ; (2) shall distinguish (a) the claims the full amount of which the company is willing tset apart and appropriate, (b) the debts or claim, if any the amount of which has been fixed by inquiry and adjudication in manner provided by section 59 of the Act, (c) the debts or claims, if any the full amount of which is not admitted by the company , and for which the company is not willing to set apart and appropriate the full amount or the amount of which has not been fixed by inquiry and adjudication as aforesaid and (3) shall show (a) which of the creditors have consented to the proposed reduction and the total amount of the debts due to them, (b) the total amount of the debts or claims the payment of which has been secured in the manner provided by Section 59 of the Act and the persons to or by whom the same are due or claimed. It shall not be necessary to show in such certificate the several amounts, or the debts or claims of any persons who have consented to be proposed reduction or the payment of whose debts or claims has been secured as aforesaid.

25. Evidence of consent of creditors.— The consent of any creditors, whether in respect of a debt due or presently due or a debt payable on a contingency or not ascertained or a claim admissible to proof in a winding up of the company may be evidenced in any manner which the Judge shall think reasonably sufficient having regard to the amount of the debt or

claim and all this circumstance of the case.

26. Petition to come of for hearing.— After the expiration of eight clear days from the filing of the certificate mentioned in Rule 24, the petition shall be set down for hearing in the ordinary course upon a request in writing addressed to the registered by the petitioner or his Advocate to the petition set down for hearing.

27. Advertisement of hearing.— Before the hearing of the petition notices stating the date on which the same is appointed to be heard shall be published at such time and in such newspaper as the registered shall direct. Such notice shall be in the prescribed form.

28. Who may appear.— Any creditor settled on the said list whose debt or claim has not, before the hearing of the petition, been discharged or determined or been secured in manner provided by Section 59 of Act, who has not before the hearing consented to the proposed reduction of capital, may appear at the hearing of the petition and opposed the application. A creditor intending so to appear shall give two days notice in writing of such intention to the Advocate of the company and in default of such notice shall not without the leave of the Judge, be entitled to appear.

29. Cost of appearance.— When a creditor who appears at the hearing under Rule 28 is a creditor the full amount of whose debt or claim is not admitted by the company, and the validity of whose debt or claim has not been inquired into and adjudicated upon under Section 59 of the Act, the costs of and occasioned by his appearance shall be dealt with in such manners as to the court shall seem just ; but in all other cased a creditor appearing under the last preceeding Rule shall be entitled to the cost of such appearance, unless the court shall be of opinion that in the circumstance of the particular case his cost ought not be allowed.

30. Direction at hearing.— When the petition comes on for hearing the Judge may, if he think fit, give directions as may seem proper in order to secure, in manner provided by Section 59 of the Act, the payment of the debt or claims of any creditors who do not consent to the proposed reduction and the further hearing of the petition may be adjourned for the purpose of carrying any such directions into effect.

31. Order confirming reduction.— Where the Judge makes an order confirming a reduction, such order shall give direction in what manner, and in what newspaper, notice of the registered of the order and of such minutes is to be published, in accordance with the provision of section 61 (3) of the Act ; and unless the Judge shall have dispensed with the further

use thereof, such order shall fix the date until which the words and reduced are to be deemed part of the same of the company in accordance with the provisions of section 57 of Act.

32. Publication of reasons for reduction etc.— If, under the provision of Section 65 of the Act the Judge shall think fit to require the company to publish the reason for the reduction of its capital, or the cause which led to such reduction, or any other information with regard thereto, the same shall be published in such newspapers as the Judge may direct.

Section C - Winding UP- Petition

33. From of petition.— Every petition for the winding up of a company by the court, or subject to the supervision of the court, shall be in the appropriate prescribed form.

34. Affidavit verifying petition.— Such petition shall be verified by an affidavit to be made by the petitioner or by one of the petitioners, if more than one, or if the petition is presented by a corporation, by a Director, Secretary or other principal officer hereof:

Provide that if the petitioner is by reason of absence or for other good caused unable to verify such petition the same may be verified by person duly authorised by him in that behalf or deemed by the court competent to verify the same. Such affidavit shall be in the prescribed form.

35. Direction.— Upon the admission of the petition the Judge shall fix a date for the hearing thereof and give direction as to the advertisements to be published and as to the persons on whom copies are to be served.

36. Advertisement of petition.— (1) The petition shall be advertised twenty- one clear days before the date fixed for the hearing thereof once in the official Gazette and once at least in two newspaper one of which shall be a daily newspaper in Hindi circulating in the locality where the company has its registered office or a principal place of business or assets and liabilities as the case may be ; and in the case of a petition to a district court empowered under section 3 (i) of the Act, also by proclamation affixed upon a conspicuous part of the court house, unless the court otherwise directs

(2) The advertisement shall state the day, on which the petition was presented and the name and address of the petitioner, and of his Advocate, if any and shall be in the prescribed form.

(3) The petitioner or his Advocate shall not less than three days before

the date fixed for the hearing, make and file an affidavit that the directions as to advertisement have been observed. In default of compliance with the directions as to advertisements the appointment for the hearing of the petition shall be cancelled and the petition removed from the file. The Judge, if satisfied as to the reasons for such default, shall fix a fresh date for the hearing of the petition and it shall thereupon be advertised in accordance with sub-Rules (1) and (2).

37. Service of petition.— (1) Every petition for the winding up of a company, unless presented by the company shall be served at the registered office of the company or if there is no registered office, then at the principal or last known principal place of business of the company if any such can be found by leaving a copy thereof and copy of the order made under Rule 35 with an officer, servant or member of the company there, or in case no officer, servant or member can be found at such office then the service shall be effected by registered post or in such other manner as the Judge may direct.

(2) If the company is at the date of the admission of the petition would wound up voluntarily, the petition shall also be served upon the liquidator, if any appointed for the purpose of winding up the affairs of the company, by leaving a copy of the petition and a copy of the order made under Rule 35 with him, or by sending copies to him by registered post or in such other manner as the Judge may direct.

(3) The due service of the petition shall be verified by affidavit in the appropriate prescribed form.

38. Copies of petition to be supplied – Every contributory or creditor of the company shall be entitled to be furnished by the petitioner or his Advocate, if any, with a copy of the petition and the affidavit in support thereof, within twenty four hour requiring the same, on payment at the rate of 50 p. per folio of ninety words for such copy.

Hearing of petition

39. Notice of intention to appear at hearing.— A person who intends to appear at the hearing of the petition shall leave with or send by registered post to, the petitioner, or his Advocate, notice of such intention signed by him or by his Advocate. Such notice shall be served or, if sent by registered post, shall be posted in time to reach the address not letter then two clear days before the day appointed for the hearing of the petition. No person who has failed to comply with this Rule shall be allowed to appear at the hearing of the petition without the leave of the Judge. Such notice

shall be in the prescribed form.

40. Affidavit.— An affidavit intended to be used in opposition to or in support or the petition shall be filed not less than seven days before the date fixed for the hearing thereof and notice of the filing thereof shall be given to the petitioner or his Advocate on the day on which the affidavit is filed. If any person failed to comply with this Rule the affidavit, unless the Judge otherwise directs, shall not be used at the hearing of the petition.

41. Affidavit in reply.— An affidavit intended to be used in reply to a affidavit filed in opposition to the petition or in support of he petition shall be filed not lets than there days before the date fixed for the hearing of the petition. Not of such filing shall be given forth with to the person by whom the affidavit in opposition was filed or, to his Advocate.

42. Substitution of creditor or contributory on withdrawal of petition.— When the petitioner applies for leave to withdraw his petition or asks that it to be dismissed or that hearing thereof be adjourned or fails to appear in support thereof or if appearing does not apply for an order in terms thereof or if for any other sufficient reason the Judge shall think fit so to do, the Judge may, upon such terms as he thinks just substitute as petitioner any creditor or contributory who in his opinion would have a right to present a petition and is desirous of prosecuting the petition already admitted.

43. An application for leave to withdraw a petition of winding up which has been advertised in accordance with the provision of Rule 36 shall not be heard at any time before the date fixed in the advertisement for the hearing of the petition.

44. Substituted petition.— Where the Judge allows a creditor or a contributory to be substituted as petitioner in an application for the winding up of the company under Rule 42, he shall adjourn the hearing of the petition to a date be fixed by him. Such creditor or contributory shall, within seven days from the making of the order, file a clean copy of the petition with such amendments as he desire to incorporate therein, and shall also file an affidavit setting out the grounds upon which he supports the petition. The amendment petition shall be treated as the petition for the winding up of company.

45. List of person who intend to appear at hearing.— The petitioner or his Advocate shall prepare a list of the names and address of the person who have given notice of their intention to appear at the hearing of the petition, and of their respective Advocate, which list shall be in the pre-

scribed form. On the appointed for the hearing of the petition a copy of the list (or, if on notice of intention to appear has been given, a statement n writing to that effect) shall be submitted by the petitioner or his Advocate to the Court Prior to the hearing of the petition.

Winding up Order and directions

46. Winding up order.— A winding up order shall be in the appropriate prescribe form.

47. Notice to registrar of companies and Official Receiver.— When an order for the winding up a company by order under the supervision of the Court has been made-

(a) the petitioner or his Advocate shall forthwith send to the Registrar of Joint stock Companies a notice in the prescribed form together with a certified copy of winding up order ; and

(b) the registrar shall except where a Liquidator is appointed simultaneously, for forthwith send to the official receiver a notice in the prescribed form informing him that the order has been pronounced.

48. Service of copy of order on the company.— If the company is not the petitioner and does not appear at the hearing a copy of the winding up order shall be served by the petitioner upon the company.

49. Advertisement and service of winding up order.— Every order for the winding up of a company, unless the judge otherwise directs, shall, within twenty one days after the date thereof be advertisement once in the Gazette of India and once in the Uttar Pradesh Gazette. The said order shall also be published in such newspaper and be served upon such person and in such manner as the Judge may direct. The advertisement shall be in the prescribed form.

The estimated cost of the aforesaid advertisement shall be deposited in court by the petitioner or the substituted petitioner, as the case may be within seven days of the making of the order.

50. Notice of application by official Liquidator.— All application by an official Liquidator shall be made on notice to such persons as may be affected by the order sought, for and to such other person as the court may direct.

Section D—Provisional and official Liquidator appointment and Duties

51. Contents of order appointing Provisional Liquidator.— The order

appointing a provisional Liquidator r shall state the nature and description of any property of which possession is ordered to be taken and the duties of the provisional Liquidator. Such order shall be in the prescribed form.

52. Appointment Official Liquidator.— The court may appointment of an Official Liquidator without any previous advertisement or notice to any party, or may fix a time and place for the appointment of an Official Liquidator, and may appoint or reject any person nominated at such time and place, and appoint any person not so nominated.

53. Advertisement as to appointment.— When a day is fixed for the appointment of an Official Liquidator, notice of such day shall be advertise in such manner as the Judge may direct, but so that the first or only advertisement shall be published not less than seven days before the day so fixe. The notice shall be in prescribed form.

54. Nomination.— Any creditor or contributory may, on the dated fixed for such appointment, nominate any person or persons for appointment as Official Liquidator is and every nomination shall be in writing signed by the nominator and nominee and contain an undertaking by the nominee that he will furnished such security as the Judge may order. The nomination shall be in the prescribed form.

55. Order of appointment not to issue until security furnished.— Where an official Liquidator is appointed subject to his furnished security to the satisfaction of Judge or Registrar no copy of the order shall issue (except for purposes of appeal and except where the Court otherwise directs) until such security has been furnished and certificate as hereinafter provided. A certified copy of the order appointing an official Liquidator, whether with or without security, shall be filed by him with the registrar or joint stock companies within a fortnight of the order being made or within ten days of the security being furnished, where security has bee direct.

56. Furnishing of Security.— Every Official Liquidator directed to furnished security shall do so depositing Government securities or by entering into a bond with one or more sufficient sureties within such time as the Judge may direct. Such bond shall be in the one of prescribed forms and the affidavit by such sureties (other than a Guarantee society) shall also be in the prescribed form.

57. Certificate of Registrar.— Where security is furnished by a Liquidator in accordance with Rule 56 a certificate shall be issued by the Registrar or the district Judge as the case may be. certifying that the security

has been duly furnished. Such certificate shall be in the prescribed form.

58. Failure to give maintain security.— (1) If a Provisional Liquidator or Official Liquidator fails to furnish the required security within the time ordered or within any extension thereof, the may rescind the order of appointment, and make such other appointment and order as to costs as he considers fit and proper.

(2) If a Provisional Liquidator or Official Liquidator fails to maintain the security ordered to be furnished the Judge may remove him and make such other appointment and such order as to costs as he my think fit.

59. Insufficient or excessive security.— If it shall appear at any time that the security furnished by the provisional Liquidator or Official Liquidator is inadequate or excessive the Judge may upon the application of the provisional Liquidator or official liquidator or of a creditor or contributory order that the security the increased or reduced in amount.

60. Form of orders.— An order for the appointment of an official liquidator shall be in the prescribed form.

61. Advertisement of appointment of official liquidator.— The appointment of a official liquidator shall be advertised by such Liquidator in such manner the Judge may direct immediately after the order has been made. Such advertisement shall be in the prescribed from.

62. Filling of accounts.— Every official liquidator shall at such time as may be directed by the court but not less than twice in each year during his tenure of office file in court an account of his receipts and payments as such Liquidators. The amount and affidavit shall be in one of the prescribed forms.

63. Audit.— Upon the accounts being filed in the court the Registrar of the district Judge, as the case may be, shall cause the accounts to be audited. For the purposes of such audit, the Liquidator shall produce before the auditor all vouchers, books and accounts, which may be required by the auditor in support of the said account and shall furnish such information as the auditor may require. After the accounts have been audited, one copy thereof shall be filed in court and the duplicate shall be sent by the Registrar or the District Judge, as the case may be, to the Registrar of Joint Stock Companies to be kept with record. Notice of such audit shall be given to such persons as the court may direct.

64. Circumstances in which fresh security may be required.— Whenever an Official Liquidator shall submit his accounts to be passed, and also

at other times whenever the Judge may so direct, the Official Liquidator shall satisfy the Judge by affidavit or otherwise as the Judge may direct, that his sureties are living, and resident in India and have not been adjudged insolvent, or in the case of a corporation, that such surety is carrying on business in India, and in default thereof he may be direct to furnish fresh security.

65. Liquidator not to have dealings with company.— (1) Any Official Liquidator, except by leave of the Judge, shall not directly or indirectly, by himself or by any partner, clerk, agent, servant or otherwise enter into any transaction of any nature whatsoever with the company or himself as such Liquidator.

(2) Any transaction made in breach of the provisions of sub-Rule (1) may be set aside by the judge on the application of any creditor or contributory or of his own motion. The judge may forthwith remove an Official Liquidator acting in breach of sub Rule (1) and may make such order as to costs as he may think fit.

(3) In any case in which the leave of the judge is given under sub-Rule (1) all costs of obtaining such leave shall be borne by the person in whose interest such leave is obtained, and shall not be payable out of the company's assets.

Banking account and Investment by Official Liquidator

66. Official Liquidator to open banking account.— Upon a winding up order being made, the Official Liquidator shall as soon as may be after his appointment open an account in the name of the Official Liquidator of the company in liquidation with a Scheduled Bank as defined in clause (e) of Section 2 of the Reserve Bank of India Act, 1934, or with such other bank as the Court may select on an application made by him for the purpose under the proviso to Section 244-A of the Act. All moneys received in the course of the winding up shall be paid into such account within ten days after the receipt thereof. An authority to open an account with the bank shall be in the prescribed form.

67. Operation of account.— No money shall be paid out of the aforesaid bank except upon cheque or order signed by the Official Liquidator and countersigned by such person as is hereinafter mentioned in Rule 69.

68. Disposal of negotiable instruments.— (1) All bills, *hundis*, notes and other securities of a like nature payable to the company or to the Official Liquidator thereof shall, unless the Judge otherwise directs, as soon as

they shall come to the hand of such Liquidator be deposited by him with such bank for the purpose of being presented for acceptance and payment or for payment only as the case may be.

(2) No bills, *hundis*, notes or other securities deposited as aforesaid shall be delivered out save upon a request signed by the Official Liquidator and countersigned by such person as is hereinafter mentioned in the next following Rule.

69. Countersigning authority.— Unless otherwise ordered by the Judge the person authorised to countersign under Rules 67 and 68 shall where the powers mentioned in Section 179 (f) of the Act have been delegated to the Official Liquidator, be such member as the Committee of Inspection shall appoint for the purpose, and where there is no Committee of Inspection, or the powers have not been delegated to the Official Liquidator, be the Registrar :

Provided that the Judge may dispense altogether with such countersignature.

70. Investment of surplus funds.— All or any part of the money for the time being standing to the credit of the account of the Official Liquidator at the bank and not immediately required for the purposes of winding up, may be invested in the name of the Official Liquidator in such securities as may be approved by the Judge. All such investments shall be made by the bank upon a request signed by the Official Liquidator; such request shall be in the prescribed form. Such securities shall be retained by the bank in the name and on behalf of the Official Liquidator and shall not afterwards be sold or transferred or otherwise dealt with except with the leave of the Judge.

71. Interest and dividends on investments.— All dividends and interest to accrue due from any such securities shall from time to time be received by the bank (for which purpose the Official Liquidator may execute such power or powers of attorney as may be necessary) and placed to the credit of the account of such Official Liquidator.

Book of Account and Records of Official Liquidator

72. Records to be maintained by Official Liquidator.— The Official Liquidator shall forthwith upon his appointment provide and keep proper books of account for the purpose of showing the receipts and payment of the company in its liquidation and of all such transactions and matters as may be necessary to furnish a correct record of his administration of the affairs of the company. In particular, he shall keep-

(a) a cash-book, in which shall be enter from day to day all receipts and payments;

(b) a ledger, which shall include individual accounts of the contributories in which every contributory shall be debited with the amount payable by him in respect of any call; and

(c) a book to be called the "Record Book" in which shall be recorded all minutes, all proceedings had, and resolutions passed at any meeting of creditors or contributories or of the Committee of Inspection and all such matters others than matters of account as may be necessary to furnish a correct view of his administration of the affairs of the company. The Official Liquidator shall not be bound to insert in the Record Book any documents of a confidential nature, nor need be exhibit such document to any person other than the Judge or a member of the Committee of Inspection.

73. Separate books of account if business of company carried on.— Where the Liquidator is authorised to carry on the business of the company, he shall keep separate books of accounts in respect of such business.

74. Copies of accounts.— A creditor or a contributory shall be entitled to obtain from the court or from the Registrar of Joint Stock Companies a copy of any account filed by the Liquidator upon payment of the prescribed fees.

Statements of affairs

75. Statement of affairs.— Any person who under Section 177-A of the Act has been required by the Official Liquidator to submit and verify a statement as to the affairs of the company shall be furnished by him with such forms and instruction as he may in his discretion consider necessary. The statement shall be prepared in duplicate one copy of which shall be verified by an affidavit. The Official Liquidator shall cause the verified statement to be filed in Court and shall retain the duplicate thereof for his records.

76. Personal interviews.— The Official Liquidator may from time to time whether before or after the submission of the statement, hold personal interviews with persons required to submit the statement for the purpose of investigating the companys affairs, and it shall be the duty of every such person to attend on the Official Liquidator at such time and place as the Official Liquidator may appoint and give the Official Liquidator all information that he may require and answer all such questions as may be put to

him by the Official Liquidator.

77. Costs of statement and affidavit.— Any person making or concurrying in the making of a statement of affairs as required by Section 177-A of the Act shall be paid by the Official Liquidator out of the assets of the company such costs and expenses incurred in or about the preparation and making of the statement and affidavit as the Official Liquidator may consider reasonable or as the judge may on application by such person direct.

78. Extension of time for making statement.— (1) Where any person required to submit a statement under Section 177-A of the Act requires an extension of time he shall apply in the first instance to the Official Liquidator who may, if he thinks fit, give a written certificate extending the time and this certificate shall be filed with the proceedings in the winding up.

(2) Where the Official Liquidator refuses to grant an extension of time for submitting the statement of affairs, the person required to submit the statement may on notice to the Official Liquidator apply to the Judge.

79. Dispensing with statement of affairs.— An application to dispense with the requirements of Section 177-A of this Act shall be supported by a report of the Official Liquidator showing the special circumstances which in his opinion render such a course desirable. Where the Judge makes an order dispensing with the requirements of the section, he may give such consequential directions as he thinks fit.

80. Further reports by Official Liquidator.— The Official Liquidator if he thinks fit may, in addition to the report required under Section 177-B of the Act, make from time to time further reports to the court stating the manner in which the company was formed and whether in his opinion any fraud has been committed by any person in its promotion or in its formation or by any director or other officer of the company in relation to the company since the formation thereof and any other matters which in his opinion it is desirable to bring to the notice of the court.

81. Directions on further report.— Where a further report is made by the Official Liquidator under the next preceding Rule, the Judge shall fix a date when the said report shall be considered, and shall on the date so fixed give such directions to the Official Liquidator as he may think fit in relation thereto. The Official Liquidator shall personally or by Advocate attend the consideration of the report and give the court any further information or explanation with reference to the matters stated therein which the court may require.

Committee of Inspection

82. Reports to be made to court.— As soon as possible after the meeting of the creditors and contributories held in accordance with Section 178-A of the Act the Official Liquidator shall report the result of such meeting to the court.

83. Directions where contributories and creditors differ.— Where there is difference between the determinations of the meeting of the creditors and contributories, the Judge shall on the application of the Official Liquidator fix a time and place for consideration of the resolutions and determinations and make such order as may be necessary. Where there is no such difference, the Judge may on the application of the Liquidator forthwith make any appointment necessary for giving effect to such resolutions or determinations.

84. Advertisement of hearing.— When the time and place has been fixed for the consideration of the resolutions and determinations of the meetings, such time and place shall be advertised by the Liquidator in such manner as the Judge may direct.

85. Procedure at hearing.— On the date fixed in accordance with Rule 83, the Judge shall hear the Liquidator and any creditor or contributory who may appear on the application.

86. Travelling expenses of members of Committee of Inspection.— The Judge may sanction the payment of such amount as he thinks fit in respect of travelling expenses incurred by members of the Committee of inspection in attending meetings of the Committee.

Vacancy in Office of Official Liquidator

87. Vacancy in office of Official Liquidator.— If an Official Liquidator appointed by the Court dies or resigns or is removed another Official Liquidator may be appointed in his place in the manner provided for the making of the first appointment.

88. Resignation of Official Liquidator.— An Official Liquidator who desires to resign his office shall apply to the Judge by petition for permission, and thereupon the Judge shall determine whether or not the resignation shall be accepted, or may give such directions and make such order as he may deem expedient.

89. Insolvency of Official Liquidator.— If an Official Liquidator be adjudged insolvent the Judge shall, upon the application of any creditor or

contributory, remove such Liquidator.

90. Delivery of property to successor.— Upon an Official Liquidator being permitted to resign or removed from his office, he shall deliver to his successor or to such person as the Judge may direct the property and assets of the company in his hands and all books kept by him and all other books, documents, papers and accounts in his possession relating to the company.

91. Disposal of records.— The Judge may at any time during the progress of the liquidation, on the application of the Official Liquidator, give directions as the disposal of such of the books, papers and documents of the company or of the Official Liquidator as are no longer required for the purpose of the liquidation.

Remuneration of Official Liquidator

92. Remuneration.—(1) The Official Liquidator shall receive such remuneration as the Judge may direct and such remuneration may be fixed either at the time of his appointment or thereafter and may be altered. Such remuneration may be fixed or altered so as to cover or exclude the employment of assistants or clerks, office rent and incidental expenses. No money shall be appropriated to such remuneration save upon the passing of an account or upon application by the Official Liquidator for that purpose on notice to such person and supported by such evidence as the Judge may direct provided nevertheless that the Judge may from time to time allow an Official Liquidator to appropriate such sum as he may think fit on account of remuneration to be thereafter fixed.

(2) An Official Liquidator shall not accept or agree to accept from any person any gift, remuneration or benefit whatever nor shall he without the sanction of the Judge give up or agree to give up any part of such remuneration to any person.

93. Advertisement for claims.— For the purpose of ascertaining the debts due by and claims against the company and of requiring debts and claims to be proved an advertisement shall be published by the Official Liquidator in such manner as the Judge may direct, such advertisement being in the prescribed from. Unless otherwise ordered by the Judge the date fixed in the advertisement shall not be less than fourteen days from the date of publication thereof.

94. Creditor to prove claim.— In a winding up by the Court, every creditor shall, subject as hereinafter provided, prove his debt unless the

judge in any particular case shall direct that any creditor or class of creditors shall be admitted without proof.

95. Proof by affidavit.— (1) A debt may be proved by affidavit which may be made by the creditor himself or by some person authorised by or on his behalf. If made by a person so authorised, the affidavit shall state his authority and means of knowledge.

(2) The affidavit shall contain or refer to a statement of account showing the particulars of the debt and shall specify the vouchers, if any, by which the same can be substantiated. The Liquidator to whom such proof is sent may at any time call for the production of vouchers.

(3) The affidavit shall state whether the creditor is or is not a secured creditor. Where the creditor seeks to prove in respect of a bill of exchange, promissory note or any other negotiable instrument or security of a like nature on which the company is liable, such bill of exchange, note, instrument or security shall be produced before the Liquidator and marked by him before the proof is admitted.

(4) The affidavit shall be in the prescribed form.

96. Discount.— A creditor proving his debt shall deduct there from all trade discounts, but he shall not be compelled to deduct any discount not exceeding five per cent on the net amount of his claim, which he may have agreed to allow for payment in cash.

97. Periodical payments.— When any rent or other payment falls due at stated periods and the order or resolution to wind up is made at any time other than one of such periods the persons entitled to the rent or payment may prove for a proportionate part thereof up to the date of the winding up order or resolution as if the rent or payment grew due from day to day.

Provided that where the Official Liquidator remains in occupation of premises demised to a company which is being wound up, nothing therein contained shall prejudice or affect the right of the landlord of such premises to claim payment by the company, or the Official Liquidator, of rent during the period of the company's or the Official Liquidator's occupation.

98. Estimation of value of debts and claim.— The value of all debts and claims against the company shall, so far as may be, be estimated according to the value thereof at the date of the order to wind up the company.

99. Dividends payable for principal and interest.— Creditors whose

debts and claims carry interest and are allowed, shall be entitled to receive dividends upon what was due for principal and interest at the date of the winding up. In the event of there being a surplus the Official Liquidator shall pay to such creditors further interest on the amount of their admitted claims at such rate as shall be fixed by the court.

100.Interest.— On any debt or certain sum, payable at a certain time or otherwise whereon interest is not reserved or agreed for, and which is overdue at the date of the winding up order or resolution, the creditor may prove for interest at a rate not exceeding six per cent per annum to that date from the date when the debt or sum was payable, if the debt or sum was payable by virtue of a written instrument at a certain date; and if payable otherwise, then from the date when a demand in writing has been made giving notice that interest would be claimed from the date of the demand until the date of payment.

101.Proof for debt payable at a future time.— A creditor may prove for a debt not payable at the date of the winding up order or resolution as if it were payable presently, and may receive dividends equally with the other creditors, deducting thereout only a rebate of interest at the rate of five per cent per annum computed from the declaration of a dividend to the date when the debt would have become payable according to the terms on which it was contracted.

102.Workmen's wages.— Where it appears that there are numerous claims for wages by workmen and others employed by the company, it shall be sufficient if one proof for all such claims is made either by a foreman or by some other person on behalf of all such creditors. Such proof shall have annexed thereto, as forming part thereof, a schedule in the prescribed form setting forth the names of the workmen and others, and the amounts severally due to them. Any proof made in compliance with this Rule shall have the same, effect as if separate proofs had been made by each of the said workmen and others.

103.Notice of investigation.— No creditor need attend upon the investigation nor prove his debt or claim unless required to do so by notice from the Official Liquidator. Such notice may be given by post at the last known address of the creditor and shall be in the prescribed form.

104.Production of securities and vouchers.— The Official Liquidator may at any time call for the production of the securities or vouchers specified in the affidavit referred to in Rule 95 and in default of such production may reject the proof.

105.Disposal of claims.— The Official Liquidator shall as soon as possible after receiving a proof, either admit or reject it wholly or in part and shall thereupon communicate his decision to the creditors whose claim he has wholly admitted. If he reject the proof wholly or in part he shall briefly communicate in writing to the creditors the ground of such rejection.

106.Settlement of list of creditors.— Every month the Official Liquidator shall file in Court a list, supported by an affidavit in the prescribed form, of all debts and claims which were wholly or in part rejected by him during the preceding month and shall obtain an appointment from the Judge to settle the same. He shall give not less than thirty day's notice of such appointment to every person included in the list. The notice shall be in the prescribed form.

107.Cost of proof.— Such creditors as prove their debts or claims shall, unless the Judge otherwise directs, bear the cost of such proof.

108.Certificate of settlement of debts and claims.— The settlement of the list of debts and claims shall be recorded in a certificate signed by the Judge in the prescribed form.

109.Expunging or reducing proof.—(1) If the Official Liquidator is of opinion that a proof has been improperly admitted he may apply on notice to the creditor who made the proof to expunge the proof or reduce its amount.

(2) If the Official Liquidator declines to interfere in the matter a creditor or contributory may apply to the Judge to expunge or reduce a proof.

Collection and Distribution of Assets

110.Duty of Official Liquidator.— The duties imposed on the Court by Section 84 (1) of the Act in a winding up by the Court, with regard to the Collection of the assets of the company, and the application of the assets in discharge of the company's liabilities, shall be discharged by the Official Liquidator as an officer of the Court subject to the control of the Judge.

111.Official Liquidator to have powers of Receiver.— For the purpose of the discharge by the Official Liquidators of such duties the Official Liquidator shall, for the purpose of acquiring or retaining possession of the property of the company, be in the same position as if he were a Receiver of property appointed by the Court, and the Judge may, on his application, enforce such acquisition or retention accordingly.

List of Contributories

112.Official Liquidator to settle list of contributories- After his appointment the Official Liquidator shall with all convenient speed prepare a list of the contributories of the company and shall appoint a time and place for the preliminary settlement of such list. The Official Liquidator shall, so far as is practicable, state therein the respective addresses of and the number of shares or extent of interest to be attributed to each contributory, and shall distinguish the several classes of contributories. As regards representative contributories the Official Liquidator shall observe the requirements of Section 184 (2) of the Act.

113.Appointment of time and place for settlement to list.— The Official Liquidator shall give notice in writing of the time and place appointed for the preliminary settlement of the list of contributories to every person included in the list, and shall state in the notice to each person in what character and for what number of shares or interest such person is included in the list. Such notice shall be in the prescribed form and due service thereof shall be proved by an affidavit in the prescribed form.

114.Settlement of preliminary list of contributories.— On the day appointed for the preliminary settlement of the list of contributories the Official Liquidator shall hear any person who has any objection to prefer with reference to his inclusion (or to the extent thereof) in the said list, and after such hearing the Official Liquidator shall complete the preliminary settlement of the list and file the same. Such list shall be in the prescribed form.

115.Notice of date appointed for settlement of final list of contributories.— Upon the list of contributories being filed the Official Liquidator shall obtain an appointment from the Judge to settle the same, and shall give notice in writing of such appointment to every person included in such list, stating in what character and for what number of shares of interest such person is included in such list and by such notice shall inform such person that any application for the removal of his name from the list, or for any other variation of the list, shall be made on such appointed day. Unless the Judge otherwise directs no application to vary the list as filed shall be entertained unless made on the day so appointed. Any application for such purpose made on any day other than the day so appointed shall be made by petition to be served on the Official Liquidator at least four clear days before the returnable date of such petition and unless good cause be shown that such application could not have been made on the appointed day, all costs of and incidental to such application shall be payable by the applicant. The notice shall be in the prescribed form.

116.Settlement of final list of contributories.— Upon the settlement of the list by the Judge the same be endorsed and signed by him. Such endorsement shall be in the prescribed form.

117.Variation or addition to list of contributories.— The Official Liquidator may from time to time apply to the Judge to vary the list of contributories. Upon such application the Judge shall give such directions as to notice and other matters and make such order as may be necessary.

118.Address of contributory for service.— The address of a contributory as stated in such list shall, unless otherwise directed by the Judge, be his address for service under these Rules.

119.Calls by Official Liquidator.— Where the Official Liquidator desires to make any call on a contributory or contributories for any purpose authorised by the Act, he shall in the first instance summon a meeting of the Committee of Inspection, if any, for the purpose of obtaining their sanction to the intended call. The notice of such meeting shall be sent to each member of the Committee of Inspection and shall contain statement of the proposed amount of the call and the purpose for which it is needed. The sanction of the Committee of Inspection shall be given by a resolution passed by a majority of the members. Where there is no Committee of Inspection, the Liquidator shall not make a call without obtaining the leave of the Court.

120.Application to the court for leave to make a call.— Where there is no Committee of Inspection, or where the Official Liquidator not agree with the decision of the Committee of Inspection, he may apply to the Court for leave to make a call and the Court shall on such application make such orders as it thinks fit. If on the hearing of such application, the Court gives leave to the Official Liquidator to make a call, the subsequent proceedings shall be in accordance with the provision of Rule 123.

121.Form of petition.— An application by the Official Liquidator for leave to make a call on contributories of the company or any of them shall be made by petition. Such petition shall be in the prescribed form.

122.Notice of petition.— If the judge admits the petition, he shall fix a date for the hearing thereof, and notice of such appointed date shall be given by advertisement or otherwise as the Judge may direct. No contributory shall be served with individual notice unless the Judge so directs and every notice and advertisement to be served, given or published under this Rule shall be served or published at least fourteen days before the date so appointed. Such notice shall be in the prescribed form.

123.Order authorising call.— Where any order authorising a call has been made a copy thereof shall forthwith be served by registered post, or sa the Judge may direct, upon each of the contributories liable to any such call together with a notice by the Official Liquidator specify the amount due from such contributory in respect of such call. Such order and notice shall be in the prescribed form. At the time of making an order authorising the call, the Judge shall give directions as to the time within which such call shall be paid and shall indicate whether the payment shall be made to the Official Liquidator or to the bank where the Liquidator has his account.

124.Enforcement of payment due from contributory.— The payment of the amount due from each contributory may be enforced by order of the Judge to be made on petition by the Liquidator, supported by an affidavit. Such petition and order shall be in prescribed form. Service of the order shall be effected in such manner as the Court may direct. The affidavit of service of the order shall be in the prescribed form.

Compromise of claims by Company

125.No compromise of claims without sanction of the court.— No claim by the company against any person shall be compromised or abandoned by the Official Liquidator without the sanction of the Judge upon notice to such person or persons as the Judge may direct.

126.Application for compromise to be accompanied by affidavit of Official Liquidator.— Every application for sanction to a compromise or arrangement with any person indebted to the company shall be supported by the affidavit of the Official Liquidator and shall state that he is satisfied for reasons stated therein that the proposed compromise or arrangement would be beneficial to the company.

Appeal against an act or decision of the Liquidator

127.Appeal from decision of Official Liquidator.— (1) If a creditor or contributory is dissatisfied with any act or decision of the Liquidator on any matter, the Judge may on the application of such creditor or contributory reverse or vary it.

(2) An application under Section 183 (5) of the Act shall be made by petition supported by the affidavit of the applicant on notice to the Official Liquidator, and shall be made within twenty-one days from the date of the Act or decision complained of

Proceeding under Section 215 and 216 of the Act

128.Appeal under Section 215 or 216 of the Act.— (1) An appeal under Section 215 of the Act shall be by petition verified by affidavit on notice to the Liquidator.

(2) An application under Section 218 of the Act shall be by petition verified by affidavit. Notice of the application shall be given to such person or persons as the Court may direct.

Sale of property

129.Sale of property.— No property belonging to a company which is being wound up by the Court shall be sold by the Liquidator without the sanction of the Court. Where a sale is sanctioned by the Court, the sale shall be held by the Liquidator or, if the Judge so directs, by an agent or auctioneer appointed by him for such purpose. All sales shall, unless the Judge otherwise directs, be made by public auction.

130.Special contracts of sale.— In a sale of movable property, unless the Judge otherwise directs, the conditions of sales shall be the same as those in force in sales under decrees or orders of the Court. Where for special reasons the Liquidator is of opinion that a special contract is necessary, he shall apply to the Judge to settle the terms.

131.Payment of purchase price.— The purchase money in a sale held in accordance with Rule 122 shall be paid in such manner as the Judge may direct, and in the absence of any directions shall be paid by the purchaser to the Official Liquidator or to his credit at the bank where he has his account.

Dividends

132.Court to sanction declaration of dividend.— No dividend shall be declared by the Official Liquidator without the sanction of the Court.

133.Notice intention to apply for leave to declare a dividend.— Not less than two months before applying to the Court for leave to declare a dividend, the Official Liquidator shall give notice of his intention to do so to such of the creditors mentioned in the statement of affairs as have not proved their debt. Such notice shall specify the latest date up to which proof may be lodged and such date shall not be less than fourteen days from the date of such notice.

134.Disposal of claim.— Where any proof is lodged pursuant to such notice the Official Liquidator shall in relation to the admission or rejection thereof act in accordance with Rule 105. The Official Liquidator shall ap-

ply, if necessary, to vary the list of creditors settled by the Court.

135.Notice of intention to declare a dividend.— Notice shall be given by the Official Liquidator of the declaration of each dividend. Such notice shall be given by advertisement (unless the Judge otherwise directs) and by sending by prepaid letter post a notice to every person whose name appears in the list of creditors as certified. Such notice shall be in the prescribed form.

136.Payment of dividends by post.— Dividend may, at the request and risk of the person to whom they are payable, be transmitted to him by post.

137.Authority to pay dividend to named person.— A person to whom dividends are payable may lodge with the Official Liquidator an authority in writing to any such dividends to another person named therein. Such authority shall be in the prescribed form.

138.Form of order.— Every order by which the Official Liquidator in a winding up by the Court is authorised to make a return to contributories of the company shall, unless the Judge otherwise directs, contain or have appended thereto a schedule prepared by the Official Liquidator setting out in tabular form the names and addresses of the persons to whom the return is to be made and the amount of money payable to each person and particulars of the transfers of shares (if any) which have been made or the variation in the list of contributories which have arisen since the date of settlement of the list of contributories. Notice of the return shall be given to each contributory. The scheduled and the notice shall be in the prescribed form.

Section E-*General Meeting of Creditors and Contributories*

139.General meeting.— All general meetings of creditors or contributories shall unless the Judge otherwise directs, be convened and held in the manner hereinafter provided.

140.Notice of meeting.— The Official Liquidator shall summon a meeting by giving not less than seven days notice of the time and place thereof in two daily newspapers circulating in the State and shall, not less than seven days before the day fixed for the meeting, send notice thereof by prepaid letter post to every person appearing to him entitled to be present thereat. Such notice shall be in the prescribed form.

141.Proof of notice.— In the case of a meeting convened by direction of the Judge, the Official Liquidator shall certify by affidavit that the requisite notices of the meeting have been duly posted. Such affidavit shall

be in the prescribed form.

142.Time and place of meeting.— All meetings shall be held at such time and place as in the opinion of the Official Liquidator is most convenient.

143.Cost of calling meeting.— The Official Liquidator may require a creditor or contributory who desires that a meeting be convened, to deposit as a condition precedent thereto a sum sufficient to cover the cost thereof. On an application to the Judge by a creditor of contributory for a direction to the Official Liquidator to convene a meeting, the Judge may whether the Official Liquidator has not required such deposit to be made, fix a sum be deposited by the applicant on account of such cost.

Such sum shall cover the cost of printing, stationery, postage and hire of room and shall be calculated in the following manner, namely-

For the first twenty-five creditors or contributories.		Rupee one per creditor or contributory.
For the next seventy-five creditors or contributories		Fifty paise per creditor or contributory
For the remaining creditors or contributories.		Twenty-five paise per creditor or contributory.

Any some deposited under this Rule shall, if the Judge so directs, be repaid out of the Company.

144.Chairman of meeting.— At every meeting of the creditors or contributories the Official Liquidator, or some person nominated by him, shall be the Chairman of the meeting. In the event of more than one person being appointed Official Liquidators the person named first in the order of appointment shall be entitled to take the chair or make the aforesaid nomination. Such nomination shall be in the prescribed form.

145.Passing of resolution.—(1) At a meeting of creditors a resolution shall be deemed to have been passed when a majority in number and value of the creditors present personally or by proxy, and voting on the resolution have voted in favour of the resolution.

(2) At a meeting of contributories a resolution shall be deemed to have been passed when a majority in number and value of the contributories

present personally or by proxy, and voting on the resolution have voted in favour of the resolution, the value of the contributories being determined according to the number of votes conferred on each contributory by the regulation of the company.

146.Copy of resolution to be filed.— The Official Liquidator shall file with the Registrar a copy certified by him to be correct of every resolution passed at a meeting of creditors or contributories.

147.Non-receipt of notice not to invalidate proceeding.— No proceeding or resolution had or passed at a meeting of creditors or contributories shall unless the Judge otherwise orders, be invalidated by reason of any creditor or contributory not having received notice thereof.

148.Adjournment.— The Chairman may, with the consent of the meeting adjourn it from time to time but the adjourned meeting shall be held at the same place as the original place of meeting unless in the resolution for adjournment another place is specified, or unless the Judge otherwise directs.

149.Quorum.—(1) A meeting may not act for any purpose except for the adjournment of the meeting unless there are present thereat in person at least three creditors or contributories entitled to vote.

(2) If within half an hour from the time appointed for the meeting a quorum of creditors or contributories is not present the meeting shall be adjourned to the same day in the following week at the same time and place, or to such other days as the Chairman may appoint, not being earlier than seven or later than fourteen days. As such adjourned meeting two creditors or contributories present in person shall form a quorum and may transact the business for which the meeting was convened.

150.Circumstances in which creditor may not vote.—(1) Unless the Judge otherwise directs no person shall be entitled to vote at a meeting of creditors unless he had lodged with the Official Liquidator a proof of the debt which he claims to be due to him from the company, and such proof has been admitted, wholly or in part, before the date on which the meeting is held.

(2) A creditor shall not vote in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained.

151.Votes of secured creditors.— For the purpose of voting, a secured creditor shall unless he surrender his security, state in his proof the particulars of the security, the date when it was given, and the value at which

he assesses it, and shall be entitled to vote only in respect of the balance (if any) due to him after deducting the value of his security.

152.Creditor required to give up security.— If a secured creditor votes in respect of his whole debt he shall be deemed to have surrendered his security unless the Judge on application is satisfied that the omission to value the security has arisen from inadvertence.

153.Minutes of meeting.— The Chairman shall cause minutes of the proceedings at the meeting to be drawn up and fairly entered in a book kept for that purpose, and shall sign the same and affix by his own hand the date of such signature.

154.Report by Chairman.— The Chairman of a meeting summoned by the direction of the Judge shall report the result thereof to the Judge. Such report shall be in the prescribed form.

155.Proxy.— A creditor or contributory may vote either in person or by proxy.

156.Form of proxy.— Every instrument of proxy shall be in the prescribed form unless the Judge otherwise directs.

157.Form of proxy to be sent with notice.— A form of proxy shall be sent to the creditors and contributories with the notice summoning the meeting. Neither the name nor description of the Official Liquidator nor of any other person shall be printed or inserted in the body by any form of proxy so sent.

158.Person when may not be appointed proxy.—(1) No creditor shall appoint a proxy who is not a creditor of the company or whose debt or claim has not been admitted or allowed and no contributory shall a appoint a proxy who is not a contributory of the company, but a creditor or contributory may appoint the Official Liquidator to act as his proxy.

(2) No minor shall be appointed a proxy

159.Proxy to be lodged with the Official Liquidator.— Unless the Judge directs otherwise a proxy shall be lodged with the Official Liquidator not later than 4 O'clock in the afternoon of the day before the meeting or adjourned meeting at which it is to be used, and no proxy shall be admitted thereafter.

160.Companies and corporations.— Where a limited company or a corporation is a creditor, any person who is duly authorised in writing by the company or corporation to act generally on its behalf at meetings of

creditors and contributories and to appoint himself or any other person to be the company's or corporation's proxy may fill in and sign the form of proxy on such company's or corporation's behalf appointing himself or any other person to be its proxy and a proxy so filled in and signed by such person shall be received and dealt with as the proxy of the company or corporation.

161.Use of proxies by deputy.— Where an Official Liquidator holds any proxies and cannot attend the meeting for which they are given, he may by a direction in writing, depute some other person to use the proxies on his behalf in such manner as he may direct.

162.Completion of proxy where creditor is blind or incapable.— The proxy of a creditor who is blind or incapable of writing may be accepted if such creditor has attached his signature or mark thereto in the presence of a witness :

Provided that such witness has added to his signature his own description and residence, that all insertions in the proxy are in his handwriting and that he has certified at the food of the proxy that all such insertions were made by him at the request and in the presence of the creditor before such creditor attached his signature or mark to the proxy.

163.Proxy signed otherwise than in Hindi or Roman character.— A proxy signed otherwise than in Devanagri or Roman character shall also bear adjacent to the signature, the name of the signatory in Devanagri or Roman character, and where such name is that of a creditor or contributory the Official Liquidator shall not be bound to make further enquiry as to the genuineness of such signature.

164.Holder of proxy not to vote on matter in which he is financially interested.— No person acting under either a general or a special proxy shall vote in favour of any resolution which would directly or indirectly place him, his partner or employer in a petition to receive any remuneration out of the company otherwise than as a creditor rateably with the other creditors of the company :

Provided that where any person holds special proxies to vote in favour of the appointment of himself as official Liquidator he may use the said proxies and vote accordingly.

Section F- Examination of Persons suspected of having Property of Company

165. Application under section 195 of the Act.— An application for

the examination of a person under Section 195 of the Act shall be made ex parte to the Judge by petition verified by the Official Liquidator stating the facts upon which the application is based. At the hearing of the application the Judge may, if satisfied that a prima facie case for such examination has been made out, direct the issue of a summons against the person named in the order for examination or for production of documents or for both. The summons shall be in the prescribed form.

166. Official Liquidator may attend examination.— At the examination of a person so summoned, the Official Liquidator may attend in person, or by an Advocate and assist the Court in examining the person summoned.

167. Examination not to be in open court.—(1) At such examination, save and except the Liquidator and the Advocate employed by him and the person to be examined, no person shall be entitled to attend.

(2) Unless the Judge otherwise directs no such examination shall be made in open Court. The notes of the deposition of a person so examined shall be signed by him and shall be filed in Court. They shall not be open to the inspection of any creditor, contributory or person other than the Official Liquidator. No person other than the person examined and the Official Liquidator shall be entitled to a copy. Unless the Judge otherwise directs such copy shall be supplied on payment of the usual charges.

168. Conduct of examination.— In the High Court the Judge may, at the time of making the order for such examination, direct that it shall be held by an officer of the High Court, and that the powers of the Court as to the conduct of the examination shall be exercised by such officer. He shall have no power to make any order as to costs.

Public Examination

169. Procedure consequent on order for public examination.— An order by the Judge under Section 196 of the Act shall be in the prescribed form. Where such order has been made directing any person to attend for public examination-

(a) the examination shall be held before the Judge, provided that the Judge may direct that the whole or any part of such examination he held before the Register or any other officer mentioned in sub-section (9) of the said section;

(b) the Judge may, if he thinks fit, either in the order for examination, or by any subsequent order, give directions as to the special matters on

which any such person is to be examined;

(c) where an examination is held before the Registrar or other officers, such officer may, if he is of opinion that such examination is being unduly or unnecessarily protracted, or for any other sufficient cause, adjourn the examination or any part thereof to be held before the Judge.

170. Appointment of day for public examination, and notice thereof.—

(1) Upon an order directing a person to attend for public examination being made, the Official Liquidator shall apply for the appointment of a day on which such examination is to be held.

(2) A day shall thereupon be appointed by the Registrar by an order in the prescribed form for holding public examination, and notice of the day so appointed shall be given by the Official Liquidator to the person who is to be examined by sending such notice, which shall be in the prescribed form, by registered post addressed to his usual or last known address.

(3) The Official Liquidator shall give notice of the day appointed for holding the public examination to the creditors and contributories by advertisement in such newspapers as the Registrar may direct.

(4) Where an adjournment of the public examination has been directed notice of the adjournment shall not be advertised unless otherwise directed by the court.

171. Default in attending- If any person who has been directed by the court to attend for public examination fails to attend at the time appointed for holding or proceeding with the same, and no good cause is shown by him for such failure, or if before the duly appointed for the examination the Official Liquidator satisfies the court that such person has abscond with the view of avoiding examination, the court, on being satisfied that notice of the order and of the time appointed for attendance at the public examination was duly served, may without any further notice issue a warrant in the prescribed form for the arrest of the person required to attend, or make such other order as the court may deem just.

Section G- Proceedings against Delinquent Directors, Officers and Promoters

172. Application against delinquent Directors, Officers and Promoters.—

(1) An application under Section 235 (1) or sub-section (1) or (5) of

Section 237 of the Act shall be made by petition to the Court. Notice of the application shall, unless otherwise ordered by the court, be served on every day named in the notice for hearing the application. Where the application is made by the Official Liquidator he may report to the court any facts or information derived from affidavits or shown evidence in the proceedings. Where the application is made by any other person it shall be supported by affidavit.

(2) The hearing of the application shall take place before the Judge in court, and he may give such directions as he may deem necessary for the taking of evidence wholly or in part by affidavit, or orally, and the cross-examination of any deponents to affidavits in support of or in opposition to the application.

173. Use of deposition taken at public examination.— The verified notes of the deposition of any person examined under Section 196 of the Act shall be admissible in evidence in any subsequent, proceeding arising out of an application referred to in Rule 172 under the following circumstances and conditions, namely-

(1) That it appears from the examination of the persons examined under section 196 of the Act that they or some of them had misapplied or retained or become liable or accountable for monies or property of the company or been guilty of misfeasance or breach of trust in relation to the company.

(2) That the subsequent proceeding is instituted for the purpose of examining into the conduct of such persons or any of them or instituting criminal proceedings against them or any of them or compelling repayment or restoration to the company monies or property or contribution by way of compensation to the assets of the company by them or any of them.

(3) That the use of such notes shall be subject to any directions of the court as to the manner and extent in and to which they shall be used and to all just exceptions as to the admissibility in evidence against any particular person or persons of any of the statements contained in the notes.

(4) That the person against whom such notes are sought to be sued was present at or held that the opportunity of being present at and taking part in the examination.

(5) That the person intending to use such notes shall have, not less than fifteen days before the day appointed for hearing the application referred to in Rule 172, given notice of such intention to each person against whom it is in-

tended to use such notes specifying the parts thereof which it is intended to read against him, and furnished him with copies thereof, unless the notes be of that person's own deposition.

(6) That the person against whom the application is made shall be at liberty to cross examine, or examine, as the case may be, any person the notes of whose examination are read, in all respects as if such person had made an affidavit on the application.

Section H- *Witnesses and Depositions*

174. Committal of contumacious witnesses.— (1) If a person examined before the Register or other officer of the court, who has no power to commit for contempt of court, refuses to answer to the satisfaction of the Registrar or such officer any question which he may allow to be put, the Registrar or such officer shall report such refusal to the Judge, and upo9n such report being made the person in default shall be in the same position, and be dealt with in the same manner, as if he had made default in answering before the Judge.

(2) The report shall be in writting and shall set forth the question put and the answer, if any, given by the person examined and shall be the prescribed the Judge.

(3) The Registrar or such officer shall, before the conclusion of the examination at which the default in answering is made, name the date and the time when the default will be reported to the Judge. If the Judge is sitting at the time when the default in answering is made, such default may be reported to him at once. Upon receiving the report the Judge may take such action thereon as he may think fit.

175. Deposition at private examination.— (1) The Official Liquidator may attend in person any examination of a witness under Section 195 of the Act, on whosoever application the same has been ordered, and may take notes of the examination for his own use, and put such questions to the person examined as the court may allow.

(2) The notes of the deposition of a person examined under Section 195 of the Act, or under any order of the court, other than the notes of the deposition of a person examined at a public examination under Section 195 of the Act, shall not be filed, or be open to the inspection of any creditor contributory, or other person, except the Official Liquidator, unless and until the court shall so direct. The court may from time to time give such general or special directions as it may think fit as to the custody and in-

spection of such notes and the furnishing of copies thereof or extracts there from.

Section I- *Arrest and Commitment*

176. To whom warrant may be addressed.— A warrant of arrest, or any other warrant issued under the provisions of the Act and these Rules, shall be addressed to the proper officer of the court or of such other curt, whether such court has jurisdiction to wind up a company or not, as the court may in each case direct.

177. Prison to which person arrested on warrant is to be taken.— Where the court issues a warrant for the arrest of a person under any provision of Act or these Rules, the prison to which the person shall be committed shall, unless the court otherwise orders, be the prison to which commitments are made by the court in the exercise of its ordinary civil jurisdiction.

178. Prison to which a person arrested is to be conveyed, and production and custody of person arrested.— (1) Where a person is arrested under a warrant of commitment issued under any provision of the Act or these Rules, other than section 195 and 197 of the Act and Rule 171 above he shall be forth with conveyed in the custody of the power officer of the court or officer apprehending him to the prison of the court within the ordinary civil jurisdiction of which he is apprehended, and dept therein for the time mentioned in the warrant of commitment, unless sooner discharged by order of the court which originally issued the warrant of commitment, or otherwise by law.

(2) The Officer in charge of such prison shall produce such person before the court as the court may from time to time direct, and shall safely keep him until such time as the court shall otherwise order or such person shall be otherwise discharged by law.

Provided that where any such person is conveyed to a prison other than the prison used by the court which originally issued the warrant in cases of orders of commitment made by such court in exercise of its ordinary civil jurisdiction, the court may order direct such person to be transferred to such last named prison, and on receipt of such order the Officer-in-charge of the prison to which such person has been conveyed shall cause such person to be conveyed proper custody to the prison mentioned in such order, and the officer in charge of such last mentioned prison shall, on production of such order and of the warrant of arrest, receive such person, and shall produce him before the court as the court amy from time to

time direct, and shall safely keep him until such as the court shall otherwise order or such person shall be otherwise discharged by law.

Section J- *Disclaimer of Property*

179. Disclaimer.—(1) An application by the Official Liquidator for leave to disclaim any part of the property of a company, pursuant to subsection(1) of Section 230-A of the Act, shall be by petition supported by affidavit showing of the petition the court shall give such directions as it sees fit and may adjourn the application to enable the parties interested or any of them to attend.

(2) When the Official Liquidator disclaims a lease hold interest he shall forthwith file the disclaimer with the proceedings in court. The disclaimer shall contain particulars of the interest disclaimed and a statement of the persons to whom notice of the disclaimer has been given. Until the disclaimer is filed by the Official Liquidator the disclaimer shall be inoperative. A disclaimer or a notice of disclaimer shall be in the prescribed form.

(3) When any persons claims to be interested in any part of the property of a company which the Official Liquidator wishes to dishes disclaim he shall at the request of the Official Liquidator furnish a statement of the interest to be claimed by him.

180. Vesting of disclaimed property.—(1) Any application under subsection (6) of Section 230-A of the Act for an order for vesting of any disclaimed property or in the delivery of any such property to any person shall be supported by the affidavit filed on the application for leave to disclaim such property.

(2) When such application as aforesaid relates to disclaimed property of a leasehold nature and it appears that there is any mortgage or underlease of such property, the court may direct that notice shall be given to the mortgagees or under-lessee that if he does not elect to accept and apply for such a vesting order as aforesaid, upon the terms required by the above mentioned sub-section and imposed by the Court, within a time to be fixed by the Court and stated in the notice, he shall be excluded from all interest in and security upon the property, and the Court may adjourn the application for such notice to be given. If at the expiration of the time so fixed by the Court such mortgagee or underlessee fails to make such election and application, the Court may make an order vesting the property in the applicant and excluding such mortgagee or under-lessee from all interest in or security upon the property.

Section K- *Meetings of Creditors and Contributories in relation to a Creditors Voluntary Winding up*

181. Application of Rules 183 to 191.— Subject to any direction which the Judge may give, all meetings in a voluntary winding up shall be governed by Rules 183 to 191 following.

182. Application of Rules 143, 145, 148, 149 and 155 to 164.—Except and in so far as the subject matter of the context may otherwise require, Rules 143, 145, 148, 149 and 155 to 164 above shall apply to meetings of creditors or contributories convened in a voluntary winding up of a company.

183. Summoning of meetings.— In any creditors' voluntary winding up the Liquidator may from time to time summon, hold and conduct meetings of creditors for the purpose of ascertaining their wishes in all matters relating to the winding up.

184. Notice of meeting.— The Liquidator shall summon all meetings of creditors and contributories by giving not less than seven day's notice of the time and place thereof in the Official Gazette and in a local newspaper; and shall, not less than seven days before the day appointed for the meeting send by post under certificate of posting to every person appearing in the company's books to be a creditor notice of the meeting of creditors and to every person appearing in the company's books or otherwise to be a contributory notice of the meeting of contributories. Notice to a creditor shall be sent to the address given in his proof, or, if he has not proved, to the address given in the statement of Affairs of the company or such other address bas may be known to the Liquidator. Notice to a contributory shall be sent to the address mentioned in the company's books as the address of such contributory or to such address as may be known to the Liquidator.

185. Proof of Service of notice.— An affidavit by the Liquidator that notice of a meeting has been duly posted in accordance with Rule 184 shall be sufficient evidence of such notice having been sent to the person to whom it was addressed.

186. Time and place of meeting.— (1) Every meeting shall be held at such place and at such time as in the opinion of the Liquidator shall be most convenient. The cost of summoning a meeting of creditors or contributors convened by a Liquidator shall be paid by him out of the assets of the company.

(2) Different times or places may, if thought expedient by the Liquida-

tor, be appointed for the meetings of creditors and contributories respectively.

187. Chairman.— The Chairman of any such meeting shall be the Liquidator appointed by the company or some person nominated by him for that purpose and in the event of more than open person having been appointed Liquidators each of them shall, if present at the meeting, be entitled to be Chairman or to nominate some other person to be Chairman in priority to the other or others of them according to the order in which they are named in the resolution by which they were appointed.

Provided that if a Liquidator shall have been appointed by the Judge in the place of a sole Liquidator appointed by the company, are Liquidator so appointed or his nominee shall be Chairman.

188. Power of Chairman.— The Chairman of the meeting shall have power to adjudicate upon the right of a creditor to vote and the amount for which he should be allowed to vote.

189. Vote of a secured creditor.— For the purpose of voting, a secured creditor shall, unless he surrenders his security, lodge with the Liquidator, before the meeting, a statement giving the particulars of the security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote in respect of the balance (if any) due to him after deducting the value of his security. The vote of a secured creditor who has not complied with this Rule shall not be counted at the meeting.

190. Liquidator prohibited from canvassing.— No Liquidator shall directly or indirectly solicit or canvas any person for the purpose of obtaining vote or proxies in his favour. No person contravening this Rule shall be appointed Liquidator and any Liquidator who shall be proved to have contravened this Rule may be removed if the Judge thinks fit.

191. Proceedings not to be invalidated by non-receipt of notice.— Where a meeting of creditors or contributories is summoned by notice, the proceedings and resolutions at the meeting shall, unless the Court otherwise orders, be valid notwithstanding that one or more creditors or contributories may not have received the notice sent to them.

Section L- ***information as to pending Liquidations***

192. Liquidator's statement under Section 244 of the Act.— statements with respect to the proceedings in and the position of a liquidation of a company under Section 244 of the Act shall, until the winding up is completed, be filed in Court, or with the Registrar of Joint Stock Companies as

the case may be once in each year at intervals of twelve months as follows-

(a) The first statement commencing at the date when a Liquidator was first appointed and brought down to the end of twelve months from the commencement of the winding up, shall be filed within thirty days from the expiration of such twelve months or within such extended period as the Judge may sanction, and the subsequent statement shall be filed at intervals of twelve months, each statement being brought down to the end of the twelve months for which it is filed;

(b) if a Liquidator resigns, he shall file a statement up to the date of his resignation;

(c) Every statement shall be in the prescribed form and shall be verified by an affidavit in the prescribed form.

193. Right of creditors and contributories to inspect statements filed under Sections 177-A and 244 of the Act.— Any creditor or contributory of a company which is being wound up shall be entitled to inspect the statement filed under Section 177-A or the statement filed under Section 244 of the Act on payment of a fee of three rupees and to receive a copy thereof or extract therefrom on payment of the usual charges for supplying copy.

194. Statements under Sections 208-D and 209-G of the Act.— The statement to be laid before the meeting summoned under Sections 208-D and 209-G of the Act shall, in the case of the first statement, be a statement similar in all respects to the first statement filed in court or with the Registrar of Joint Stock Companies, as the case may be, under Rule 192 Above and subsequent statements shall be similar in form to the first statement, but shall commence at the date when the last previous statement terminated and be brought down to the end of twelve months from such date.

195. Returns under Sections 208-E (3) and 209-H (3) of the Act.— The returns to be made under sub-section(3) of Section 208-E and sub-section(3) of section 209-H of the Act shall be in the prescribed form.

Section M – *miscellaneous- Declaration of Solvency*

196. Declaration of solvency.— The declaration of solvency under Section 207 of the Act shall be in the prescribed form.

Notice of Appointment of Liquidator in a Voluntary Winding up

197. Notice of appointment of Liquidator in a voluntary winding up.— The notice of appointment of a Liquidator in a voluntary winding up to be filed with the Registrar of Joint stock Companies under Section 214 of the Act shall be in the prescribed form.

Unclaimed Funds and Undistributed Assets in the Hand of a Liquidator in a Voluntary Winding up

198. Payment by Liquidator under Section 244-B of the Act.— The Liquidator shall, when making any payment under Section 244-B of the Act, file in Court a copy of the statement furnished to the Central Government in Accoedance with the provisions of Section 244-B (2) of the Act.

199. Application under Section 244-B (5) of the Act.— An application by a person claiming to be entitled to any part of the moneys paid into the Reserve Bank by a Liquidator in accordance with Section 244-B of the Act shall be made by petition.

Termination of Winding up Proceeding

200. Termination of winding up proceedings.— Upon the termination of the proceedings for the winding up of a company the Official Liquidator shall file a final account to which in the event of there being a balance in his hands, there shall be attached a statement signed by the Official Liquidator setting out the names and last known addresses of the persons entitled to participate therein, the amount to which each is entitled and the nature of his claim thereto. Upon the passing of such account the balance in his hands (if any) shall be certified by the Judge; and upon payment by the official Liquidator of such balance in accordance with the provisions of Section 244-B of the Act the recognizance entered into by the Official Liquidator and his sureties shall be vacated. Such certificate shall be in the prescribed form.

201. Dissolution of company.— When the Official Liquidator has passed his final account, and such balance has been duly paid, the Official Liquidator shall apply to the Judge for an order that the company be dissolyed. Such order shall be in the prescribed form.

202. Disposal of company's records.— Upon such order being made all documents and books of account or records of the Official Liquidator shall be deposited in court unless the Judge otherwise directs. Unless otherwise directed, the books and papers of a company which has been wound up shall be destroyed after a period of three years form the date of deposit in

court.

Transfer of Windings of Proceedings

203. Transfer of proceedings from district Court to High Court.— The High Court may, at any stage of any proceeding under the Act pending in a district court, for good cause shown, order such proceeding to be transferred to the High Court.

204. Application for transfer of winding up proceedings.— (1) Application under Section 164 or Section 165 of the Act or under the next preceding Rule, as the case may be, shall be made by petition verified by affidavit. Upon the filing of such an application the Registrar shall give such orders and directions as the nature of the case may require and shall fix a date for hearing.

(2) The application may be made ex parte, but the Judge may adjourn consideration thereof and direct notice to be given to such person or persons as he may think fit.

205. Form of order.— An order for transfer of winding up proceeding shall be in one of the prescribed forms.

Suits and proceedings in which a Company in Liquidation, by or under the supervision of the Court, is a party

206. Suits and proceedings in which a company in Liquidation, by or under the supervision of the court, is a party.— Upon the making of an orderby the High Court for the winding up of a company by or under the supervision of the Court all suits and proceedings to which the company is or shall be a party then pending, or thereafter instituted in, or transferred to the High Court, shall be assigned to and placed in the list of the Judges for the time being exercising jurisdiction under the Act in respect of such company.

Application under Section 281 of the Act

207. Application under Section 281 of the Act.— An application under Section 281 of the Act shall be by petition verified by an affidavit and shall be made on notice to the company or, where the company is being wound up, to the Liquidator.

Taxation of Cost

208. Taxation of costs.— Where an order is made by the High Court for the payment of any costs, the taxation thereof shall be made by the

Taxing Officer, except in case where a sum in lieu of taxed costs is fixed by the order.

209. Application of Rules to subordinate Courts.— The Rules contained in this chapter shall, so far as may be and with necessary modifications and adaptations, also apply to proceedings under the Act in subordinate Courts.

APPENDIX TO CHAPTER XXVIII

List of annexures to be filed with petition

(1) Petition under Sec. 12 of the Act for alteration of the memorandum of association.	A true copy of the memorandum of association. A true copy of the notice calling the meeting. A true copy of the special resolution sanctioning the alteration
(2)Petition under Section 55 and 56 of the Act for sanctioning reduction of share capital	Ditto.
(3)Petition under Section 156-A of the Act for sanctioning the issue of shares at a discount.	As in item (1). As in item (1). A true copy of the relevant resolution.
(4) Petition under Section 153 of the Act for sanctioning compromise or arrangement.	A true copy of the memorandum of association. A true copy of the compromise or arrangement. A true copy of the compromise or arrangement. A report of the proceeding of the meeting ordered by the Court under Section

	153of the Act.
(5) Petition for winding up under Section 166 of the Act.	In the case of a petition filed by the Registrar of Joint Stock Companies, a true copy of the order of Government sanctioning the filing of the petition. In the case of a petition filed by the company, a true copy of the special resolution resolving that the Company be wound up by Court.
Petition under Section 247 of the Act for the restoration of a company off the register.	A true copy of the order striking the Company's name off the register.
(6) Petition under Section 267 of the Act sanctioning the alteration in the form of constitution.	A true copy of the deed of settlement. A true copy of the proposed memorandum and articles of association. A true copy of the special resolution sanctioning the substitution. A true copy of the notice calling the meeting.

CHAPTER XXIX

Banking Companies Rules

1. Short title.—The Rules contained in this chapter may be cited as Banking Companies Rules.

2. Definitions.—In this chapter unless the context or subject-matter otherwise requires-

(a) "Act" means the Banking Companies Act, 1949;

(b) "Company" means a company to which the provisions of the Act apply; and

(c) "Judge" means the Judge for the time being exercising the original jurisdiction of the Court in company matters.

3. General heading.—(1) The following shall be used as general heading in all cases under the Act or the Rules contained in this chapter :

In the High Court of Judicature at Allahabad.

In the matter of the Banking Companies Act, 1949 (Act X of 1949), and of ..... Bank Ltd.

(2) In matter relating to the winding up of a company, the words "The Indian Companies Act, 1913 (VII of 1913) and" shall be inserted between the words "of" and the "Banking Companies Act" in sub-rule (1).

4. Verification of petition.—Every petition under the Act shall be verified in the manner specified in Rule 6 of Chapter XXVIII and presented to the Judge.

5. Service of notices and summonses.—[1][All notices and summonses issued under the Act by the Court or the Official Liquidator shall be sent by registered post Acknowledgement Due and, unless the cover is returned undelivered by the post office [2][for reasons other than refusal by the person to whom it is addressed], the notice or the summons, as the case may be, shall be deemed to have been delivered to the addressee even if the acknowledgement signed by him has not been received back.]

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[1] Subst. by Not. No. 79/VII-F-143, dated 24.02.1956

[2] Inserted by Not. No. 36/VII-F-143, dated 10.04.1957

6. Contest of depositor's claim by Official Liquidator.—[1] [A claim deemed to have been filed under Section 43 of the Act may be contested by the Official Liquidator by means of a report to the Court that there are reasons for doubting the genuineness or correctness of the entry or entries in the books of the company on which it is based. The report shall also state the reasons for doubting the claim. Upon receipt of the report, and if the Court is satisfied that there is reason for such doubt, it shall cause notice to be given to the depositor calling upon him to appear and prove his claim.]

[7. Special rules of procedure.—During the course of all enquiries and proceedings under Parts III and III-A of the Act, the following special rules of procedure shall be followed, viz :

(A) The Court may presume-

(a) in the case of any document which has been duly registered in accordance with the provisions of the Indian Registration Act (XVI of 1908), that the signature and every other part of such document which purports to be in the handwriting of any particular person is in that person's handwriting and that it was duly executed and attested by the person or persons by whom it purports to be executed and attested;

(b) as against a party, that any document which purports to have been signed by him has been so signed.

(B) Secondary evidence of the contents of a document shall be allowed to be tendered without giving previous notice prescribed by Section 66 of the Evidence Act in cases where the original is in the custody of the person against whom the document is sought to be proved.

(C) Where it is necessary to record the deposition of a witness the same shall be taken down to the dictation of the Judge in open Court. The record so prepared shall, in cases where the witness can read the language of the Court, be read and signed by him. In other cases, the statement shall be read over to him only if he makes a request for it. But a note shall in every case be appended by the Judge to the effect that the statement has been recorded under his supervision.

(D) If a party, who has been ordered by the Court to produce a document to make discovery or grant an inspection or to answer interrogatories,

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[1] Subst. by Not. No. 36/VII-F-143, dated 10.04.1957

makes default (without sufficient cause), in doing so, he shall be liable, if a petitioner, to have his petition dismissed and, if an opposite party, to have his defence struck off.

(E) The Court may take cognizance of any offence under Section 45-J of the Act either upon a report of the Official Liquidator or on facts being brought to its notice by any depositor, creditor or contributory or *suomotu*.

[1][(F) (i) Where an offence triable under Section 45-J (i) is tried summarily the procedure provided in the Code of Criminal Procedure for the trial of summons cases shall, so far as it is not inconsistent with the provisions of the Act be applicable, Where, however, the offence to be tried summarily under Section 45-J (1) is tried jointly with an offence under Section 45-J (2) the procedure provided in the Code of Criminal Procedure for the trial of warrant cases shall be applicable, provided that it shall not be necessary to adjourn the case under Section 256 (1) of the Code of Criminal Procedure before requiring the accused to enter upon his defence or inquiring of him whether he wishes to further cross-examine any witness whose evidence has been taken.

(ii) Where the offences triable under Section 45-J are not tried summarily, the procedure provided in the Code of Criminal Procedure for the trial of Warrant cases shall, so far as it is not inconsistent with the provision of the Act, be applicable.]

(G) An appeal shall lie against a judgment of the Court to a Division Bench in cases where the said Court awards a sentence of more than six months' imprisonment.

(H) The period of appeal for any such appeal shall be thirty days exclusive of the time taken in obtaining a copy of the judgment appealed against.

(I) Notice of every appeal shall be sent, in addition to the parties concerned to the Official Liquidator, and if it be an appeal against conviction, to the Government Advocate also.

[2][(J) All offences punishable under the Act or under the Indian companies Act, 1913 or under the Company's Act, 1956 may be tried summarily, provided they are publishable with imprisonment not exceeding three

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[1] Subst. By not. No. 274/VIII-C-143, dated 21.11.1958

[2] Inserted by Not. No. 79/VIII-F-143, dated 24.02.1956

years with or without fine.

(K) A person applying under Section 45-D (9) for varying the list of debtors settled *ex parte*, shall, at the time of presenting his application, either deposit in the Court the amount due from him by reason of the order passed under Section 45-D (4) or give such security for the payment thereof as the Court may, on a previous application made by him in this behalf have directed.]

8. Paper book in appeal.—In every appeal preferred against the decision of a claim by or against a company, a printed paper-book shall be prepared if the valuation of the appeal is twenty thousand rupees or more. In other cases a typewritten paper-book shall be prepared.

The cost of preparation of such paper-book shall be paid by the appellant and the procedure prescribed in Chapter XIII shall, in so far as may be and with necessary modifications and adaptations, apply.

[1][**9. List of Debtors.—**List of debtors shall be filed by the Official Liquidator in the form prescribed by the Central Government in the rules framed under Section 52. So long as the form is not prescribed, they may be filed in any suitable form, but they should contain all the particulars mentioned in the Fourth Schedule.]

[1][**10. Settlement of Lists.—**Rules 112 to 118 of Chapter XXVIII of the Rules of Court, 1952, Volume I, for settling the lists of contributories shall apply*mutatis mutandis* for settling the lists of debtors.]

[1][**11. Preparation of reports under Section 45-G.—**The Official Liquidator may, if he so desires, be allowed the assistance of a firm of chartered accountants in the preparation of his report under Section 45-G.]

[2][**12. Presentation of report.—**The report under Section 45-G shall be presented to the Judge in chambers in the first instance. If the Judge perusing the report considers it desirable to hold a public examination, he shall direct notice to issue to the party concerned to appear in Court and show cause why he should not be publicly examined.]

[1][**13. Public examination of report.—**If after hearing the opposite party, the Judge orders the public examination to be held, he shall fix a date for the purpose.]

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[1] Inserted by Not. No. 79/VII-F-143, dated 24.02.1956

[2] Inserted by Not. No. 36/VII-F-143, dated 10.05.1957

[1][**14. Notice of date.—**The Official Liquidator shall give notice of the date appointed for holding the public examination to the creditors and contributories by advertisement in such newspapers as the Judge may direct.]

[1][**15. Notice of adjournment.—**Where an adjournment of the public examination has been directed, notice of the adjournment shall not be advertised unless it is directed by the Judge.]

[1][**16. Failure to attend.—**If any person who has been directed by the Judge to attend for public examination fails to attend at the time appointed for holding or proceeding with the same, and no good cause is shown by him for such failure, or if before the day appointed for the examination the Official Liquidator satisfied the Judge that such person has absconded or that there is reason to believe that he is about to abscond with the view of avoiding examination, the Judge, on being satisfied that notice of the order and of the time appointed for attendance at the public examination was duly served, may without any further notice issue a warrant in the prescribed form for the arrest of the person required to attend, or make such other orders as the Judge may deem just.]

[2][**17. Inspection of record by Reserve Bank.—**The Registrar shall allow any Official of the Reserve Bank authorised in this behalf by the [Bank] to inspect the record of any case concerning any Bank in liquidation, unless for reasons to be recorded in writing, he considers the inspection unnecessary or vexations, or the Court in its discretion has disallowed the inspection.]

18. Application of Rules in Chapter XXVIII.—Subject to the Rules contained in the Chapter and the provisions of the Act, the Rules contained in Chapter XXVIII shall, in so far as may be and with necessary modifications and adaptations, also apply proceedings under this Chapter.

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[1] Inserted by Not. No. 79/VII-F-143, dated 24.02.1956

[2] Inserted by Not. No. 36/VII-F-143, dated 10.05.1957

CHAPTER XXX

Testamentary and Intestate Jurisdiction

Section A - Preliminary

1. Definitions.—In this Chapter, unless the context otherwise requires-

(i) "The Act" means the Indian Succession Act, 1925;

(ii) "Will" includes a codicil.

2. General heading.—The following shall be used as general headings in all cases under the Act or this Chapter:

In the High Court of Judicature at Allahabad

Testamentary and Intestate Jurisdiction

Testamentary Case/Suit No. of 19 . . .

In the matter of the goods of . . . . . deceased

Section B - Non-Contentious Business

3. Non-contentious business.—Non-contentious business shall include the business of obtaining probate and letters of administration (with or without the will annexed, and whether general, special or limited) where there is no contention as to the right thereto or where there has been contention the contest is terminated, and all *ex parte* business to be taken in the Court in matters of testacy and intestacy not being proceedings in any suit, and also the business of lodging caveats against the grant of probate or letters of administration.

4. Notice to Board of Revenue.—The Registrar shall give notice of every application for probate or letters of administration to the Board of Revenue within one week of the filing of the application.

5. Application for probate.—Application for probate shall be made by petition with the will annexed, accompanied, if the will is not in English or Hindi, with an official translation thereof in English. Such application shall contain an undertaking that an inventory and account will be filed within six and twelve months respectively after the date of issue of probate. the petition shall be in the prescribed form or as near thereto as the circumstances of the case may permit and shall be accompanied by-

(a) an affidavit of one of the attesting witnesses if procurable, in the prescribed form; and
(b) an affidavit of valuation in the form set forth in Schedule III of the Court Fees Act, 1870 along with an appropriate account specifying all the property in respect of which estate duty is payable upon the death of the deceased.
[1][(c) an authenticated copy of the application; and
(d) a certificate of death by a competent authority or an affidavit of the person who may have actually witnessed the death or may be fully acquainted to testify about the death of the testator.]

A copy of the affidavit under Clause (b) shall also be delivered to the Controller of Estate Duty, Uttar Pradesh.

6. Application for letters of administration.—Application for Letters of administration shall be made by petition in the prescribed form or as near thereto as the circumstances of the case may permit and shall be accompanied by annexures (b) [(c) and (d)] mentioned in the last preceding Rule :

[2][Provided that the application for grant of letters of Administration under Section 244 or 246 of the Act, shall also, if the petitioner is acquainted with the facts, state the age of the minor or shall be accompanied by the affidavit of the person who is so acquainted, stating the age of the minor.]

7. Application for letters of administration with the will annexed.—Where the application is one for letters of administration with the will annexed it shall also set out the names and addresses of the legal representatives of the deceased (unless the Court sees fit to dispense with them), and shall also be accompanied by annexure (a) referred to in Rule 5.

8. Certificate that no other grant has been made.—Within fourteen days of the filing of an application for probate or letters of administration the Registrar shall certify whether any intimation has been received by the Court from any other High Court or any district Court, of any grant of any probate or of letters of administration of the property and credits of the deceased having effect throughout the territory of India.

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[1] Added by Not. No. 319/VIII-C-184, dated 18.10.1978

[2] Added ibid

Such certificate shall be made on the order-sheet and shall be in the prescribed form.

9. Certificate as to Court-fee.—No order for the issue of a grant of probate or letters of administration shall be made-

(a) until after the Registrar has certified either that the Court-fee payable on the grant has been paid or that no Court fee is payable, such certificate being made on the order-sheet in the prescribed form; and

(b) until the applicant has delivered the account referred to in clause (b) of Rule 5 and has produced a certificate from the Controller, under Section 60 or 67 of the Estate Duty Act, 1953, that the estate duty payable in respect of the property included in the account has been or will be paid or that none is due, as the case may be.

10. Proof of identity.—The Judge may, where he deems it necessary, require proof, in addition to the usual statement required to be made in the petition, of the identity of the deceased or the party applying for the grant.

11. Interlineations, alterations, etc. in will to be sworn to by attesting witnesses.—Where interlineations, alterations, erasures or obliterations appear in the will (unless duly executed as required by the Act or recited in or otherwise identified by the attestation clause) a statement shall, if possible, be made in the affidavit of the attesting witness whether they existed in the will before its execution or not.

12. In absence of attesting witness what other evidence must be produced.—If no affidavit by any of the attesting witnesses is procurable, an affidavit shall be procured (if possible) from some other person (if any) who may have been present at the execution of the will; but if no affidavit of any such person can be obtained, evidence on affidavit must be produced of that fact and of the handwriting of the deceased and one attesting witness and also of any circumstances which may raise a presumption in favour of due execution.

13. Attempted cancellation must be accounted for.—Any appearance of an attempted cancellation of a testamentary writing by burning, tearing obliteration or otherwise, and every circumstance leading to a presumption of abandonment or revocation of such writing or part thereof, must be accounted for.

14. Unsigned or unattested will.—In cases in which it is not necessary that a will should be signed by the testator or attested by witnesses to

constitute a valid testamentary disposition of the testator's property, the testator's intention that it should operate as his testamentary disposition must be clearly proved by affidavit.

15. Renunciation.—No person, who renounces probate of a will or letters of administration of the property of a deceased person in one character, shall, without the leave of the Judge, take out representation to the same deceased in another character.

16. Application for administration by creditor.—In all applications by a creditor for letters of administration, it shall be stated particularly how the debt or debts arose, the amount due on the date of the application, and whether the applicant has any and what security therefor.

17. Production for deed referred to in will.—If a will contains a reference to any paper, memorandum, or other document of such nature as to raise a question whether it ought not to form a constituent part of the will, such paper, memorandum or other document shall be produced with a view to ascertain whether it is entitled to probate, and where not produced, its non-production must be accounted for.

18. Persons consenting to an application for letters of administration shall do so on affidavit.—Persons desiring to give their consent to an application for letters of administration shall do so on affidavit, stating their relationship to the deceased and that they consent to the grant of letters of administration to the petitioner.

19. Citation to rightful parties.—On an application for letters of administration, unless otherwise ordered by the Judge or Registrar, a citation shall issue to all persons including the Administrator General having a right to take the grant prior or equal to that of the applicant, unless such persons have signified their consent to the application.

20. Citation on application by creditor.—Where letters of administration are applied for by a creditor, a special citation shall be issued to the widow, if any, and to the next-of-kin, provided they shall be resident within the jurisdiction or have any known agent or agents resident within the jurisdiction, and to the Administrator General, and a general citation shall be issued to all persons claiming to have any interest in the estate of the deceased.

21. Citations.—All citations shall, unless otherwise ordered, direct the persons cited to show cause on such day certain as the Judge shall direct and shall be in the prescribed form and, where they cannot be served in the

manner provided for service of process, may be served by the insertion as an advertisement in such newspaper as may be directed, of a notice in the prescribed form.

22. Proof of publication.—Proof of due publication of a citation by advertisement shall be by affidavit, unless the Judge or Registrar has directed that such citation be published once only in a single newspaper in which case a copy of the issue of the newspaper containing the said advertisement may be filed in lieu of an affidavit. The affidavit shall be in the prescribed form or as near thereto as circumstances permit.

23. Proof of power-of-attorney.—Unless a power-of-attorney constituting such attorney or the attorney of an executor absent from the State can, under Section 85 of the Indian Evidence Act, 1872, be presumed to have been executed and authenticated as in the said section mentioned, the Court may require further proof of its due execution.

24. Grant when to have effect in the State.—All grants of probate or letters of administration (with or without the will annexed) other than grants under the Administrator General's Act, shall unless otherwise ordered, be drawn up by the Registrar to have effect within the State.

25. Grant when to have effect throughout India.—In all cases in which it is sought to obtain a grant of probate or letters of administration (with or without the will annexed) to have effect throughout the territory of India, or, under the Administrator General's Act, 1913, to have effect throughout one or more of the other Divisions as defined in that Act such grant shall be expressly asked for, and it shall be shown where the assets are situated.

26. Administration bond.—Every person to whom a grant of letters of administration, other than a grant under Section 241 of the Act, is committed, shall give a bond to and in the name of the Chief Justice with one or more sufficient sureties to be approved by the Registrar. Such bond shall in all cases be prepared in the office of the Registrar and shall unless otherwise ordered by the Court, be given in the amount of the full value of the property for which the grant is to be made less the amount of debts (if any) secured by mortgage of the estate property. The bond, unless given by a Guarantee Society, shall be in the prescribed form.

27. Guarantee Society as surety.—A Guarantee Society, if approved of by the Court, may be accepted as surety upon its joining in a bond, which shall be in the prescribed form, with the Administrator or Administrators.

28. Representation of Guarantee Society by agent.—Where such a Guarantee Society is represented by an agent, the document or documents authorising the latter to; act on behalf of the Society shall in the first instance be submitted to and approved of by the Court, and whenever a bond is sent to him for signature, it shall be accompanied by a letter and the agent shall send a reply under his signature (forms prescribed).

29. Filing of annual balance-sheet by such Society.—Every such Society shall each year file with the Registrar a copy of the Society's annual balance-sheet duly audited, which copy shall be verified by the affidavit of the agent or principal officer and be submitted by the Registrar to the Court.

30. Attestation of bond.—The execution of administration bond by person other than a Guarantee Society shall be attested by the Registrar or where executed outside the Court-house, by the Registrar or such gazetted officer as may be nominated by the Registrar for that purpose.

31. Consequence of neglect to proceed with petition or to furnish security.—If a petitioner for a grant of probate or letters of administration, for three months from the date of admission of the petition, neglects to proceed with petition, or for three months from the date of the order for grant neglects to give the required security or otherwise to proceed with the application, or to take out the grant, the Registrar shall give notice in writing of his default to the Administrator General, who may then apply to the Court for an order that the petition be dismissed and that he may be at liberty to apply for a grant of letters of administration.

If no further steps are taken in the matter the petition may be listed before the Court for dismissal and the Court may thereupon make such order as it thinks fit.

32. Schedule of property to accompany certificate under Section 274 of the Act or Section 24 of the Administration-General's Act, 1963.—With every certificate to be sent to a High Court under the provisions of Section 274 of the Act or Section 24 of the Administrators-General's Act, 1963, the Registrar shall send a copy of so much of the schedule of the property and creditors of the deceased as relates to the estate within the jurisdiction of such Court.

33. Extension of grants.—A grant - (a) under the Act, or (b) under the Administrator General's Act, 1913, having effect within the State may be amended so as to extend its effect in case (a) throughout the territory of India or in case (b) throughout one or more of the other Divisions as de-

fined in that Act. The application shall be by petition supported by a further affidavit of valuation in the form set out in the Schedule III of the Court-fees Act, 1870, with such variations as the circumstances may require, and on payment of the probate duty payable in respect thereof, and in case of grant of letters of administration with or without the will annexed, on the petitioner giving a further bond, the grant may be amended accordingly.

34. Inventory and account.—Inventory and account to be furnished by an executor or administrator under Section 317 of the Act shall be in the prescribed form, and shall be verified in the manner following :

"I ..., the executor (or administrator) named in the above inventory, do hereby declare that the said inventory is in every respect true, perfect and correct to the best of my knowledge, information and belief, and that the same contains a full, true and perfect inventory of all the property in the possession of the deceased, at the date of his death, and of all credits owing to him, and of all debts owing by him"; or

"I ... , the executor (or administrator) named in the above account, do hereby declare that the said account is true, perfect and correct to the best of my knowledge, information and belief, and that it gives a full, true and perfect account of all the estate and effects of the deceased which has or have come into my hands, possession, power, control, custody or knowledge, and of the disposition of the same.

Section C - Contentious Business

35. Caveats.—Any person intending to oppose the issuing of a grant of probate or letters of administration must either personally or by his Advocate file a caveat in Court in the prescribed form. Notice of the filing of the caveat shall be given by the Court to the petitioner or his Advocate in the prescribed form.

36. Affidavit in support of caveat.—Where a caveat is entered after an application has been made for a grant of probate or letters of administration with or without the will annexed, an objection supported by affidavit shall be filed within fourteen days of the caveat being lodged. Such objection shall state the right and interest of the caveator and the ground of objection to the application.

37. When caveat is entered before application for grant is filed.— Where an application for grant of probate or letters of administration with or without the will annexed is presented after a caveat has been filed, the

Registrar shall forthwith issue notice to the caveator calling upon him to file his objection supported by affidavit within fourteen days from the service of such notice.

38. Consequence of non-compliance.—Where the caveator fails to file any objection in compliance with Rule 36 or in compliance with the notice issued under Rule 37, the caveat may be discharged by an order to be obtained on application to the Court.

39. Conversion of application into suit.—Upon the affidavit in support of the caveat being filed (notice whereof shall immediately be given by the caveator to the petitioner) the proceedings shall be numbered as a suit in which the petitioner for probate or letters of administration shall be the plaintiff, and the caveator shall be the defendant, the petition for probate or letters of administration being registered as and deemed a plaint filed against the caveator, and the objection filed by the caveator being treated as his written statement in the suit. The procedure in such suit shall, as nearly as may be, be according to the provisions of the Code.

40. Proof in solemn form.—The party opposing a will may, with his affidavit, give notice to the party setting up the will that he merely insists upon the will being proved in solemn form of law, and only intends to cross-examine the witnesses produced in support of the will, and he shall thereupon be at liberty to do so, and shall not, in any event, be liable to pay the costs of the other side, unless the Court shall be of opinion that there was no reasonable ground for opposing the will.

41. Trial of preliminary issue.—The Court may, on the application of the petitioner, before directing that the proceedings be numbered as a suit, direct the trial of an issue as to the caveator's interest. Where, upon the trial of such issue, it appears that the caveator has no interest, the Court shall order the caveat to be discharged, and may order the issue of probate or letters of administration as the case may be.

Section D - Miscellaneous

[1]**[42. Custody of original will.—**(i) Every original will filed in the court for the purpose of an application for the grant of a Probate or Letters of Administration with the Will annexed shall, except as hereinafter provided, remain in the custody of the Registrar and shall be preserved by him in the manner hereinafter mentioned :

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[1] Inserted by Not. No. 319/VIII-C-184, dated 18.10.1978

Provided that it shall be lawful for the Registrar upon the requisition from any other court for the production of an original Will in a case pending in such court to forward the Will in a sealed packet under the custody of a responsible officer to such court for production in the pending case. The Officer shall deliver the sealed packet containing the Will to the Judge of such court and the Judge shall thereupon take all needful precautions for the safe custody and preservation of the Will, until he has returned the same in a sealed packet to the officer to whom it was entrusted for production, who shall deliver the sealed packet to the Registrar for the purpose for which it was filed.

(ii) The Registrar may transmit a Will to a court requiring its production by registered post insured for not less than Rs. 1,000, when its production through a responsible officer before that court, shall entail an amount of delay or expense which is unreasonable.

(iii) The Registrar shall not comply with any requisition for the production of a Will except on receipt of a sum sufficient to cover all necessary expenses.

(iv) When any such original Will is filed, the Registrar shall endorse upon it a serial number and a reference to the application in which it is filed and shall cause a copy of the Will to be made and after the copy has been examined by himself or such officer of the court as he directs and found by him to be a true copy, shall certify the copy to be a true copy and shall place it with the records and the Will shall thereupon be placed in a sealed cover and shall be locked up in a fire proof box, which shall be kept in the sole custody of the Registrar. The key of the box shall also be in the sole custody of the Registrar, who will be held responsible for the safe custody of the box and its contents.

(v) No original Will, after being placed in the fire proof box, shall be removed therefrom except under an Order in writing of the Registrar made for the purpose of-

(a) complying with a requisition as required by the proviso to Rule 42 (i), or
(b) for being produced in Court on the hearing of the application for the purpose of which it was filed or on the hearing of an application for the revocation of a grant of probate or Letters of Administration with the Will annexed or on the hearing of a case in court or in any subordinate court, in which it is necessary to put such Will in evidence,

(c) for being copied, and
(d) for inspection of the Will.

(vi) A special register shall be maintained in the prescribed form for making entries of such Wills filed in the court.

(vii) Alphabetical index shall also be prepared in the prescribed form to the entries made in the Register and a copy of such index shall be attached to the Register. The Registrar may upon an application in writing for inspection of the Register or any Will mentioned in such Register, make an order for the inspection of the same :

Provided that rules contained in Chapter XXXIX, with regard to entertainment of an application for inspection and inspection of records and register of records shall also apply to the entertainment of an application for inspection of any original Will and Register of original Will and also for inspection of original Will and register of Wills.

(viii) Every copy of original Will shall be made in the presence of the Registrar or such officer of the Court as the Registrar may direct.

(ix) Application for copy of the original Will shall be submitted to the court and such a copy shall only be granted subject to the conditions which is attached to the inspection of original Wills.

43. Decree under Section 295 of Administrators-General Act, 1963.—(a) (i) In all cases falling under Section 295 of the Act, a decree shall be drawn up in the prescribed form.

(ii) The decree shall direct the grantee to file in court within six months and one year respectively the inventory and account mentioned in Section 317 of the Act.

(b) After an order for grant of probate is made and in contentious cases the decree is drawn up, the probate or Letters of Administration shall be drawn up in the form prescribed in Schedule VI or VII of the Act, as the case may be, on stamp paper of requisite value produced by the petitioner, upon the petitioner filing in the court the Administration Bond of himself and/of his sureties in accordance with the orders of the Court.]

[1][**44. Administrator-General Act, 1963.—**Nothing in this Chapter shall apply to applications to be made or acts to be done by the Administrator

[1] Amended by Not. No. 319/VIII-C-184, dated 18.10.1978

General in so far as they conflict with the provisions of the Administrators-General's Act, 1963.

45. Application of Rule to subordinate Courts.—The Rule contained in this Chapter shall, so far as may be and with necessary modifications and adaptations, also apply to proceedings under the Act in subordinate Courts.]

Appendix to Chapter XXX

Rules Under Sections 223 and 236 of the Indian Succession Act, 1925

The following [Rules] have been made by the Government under Sections 223 and 236 of the Indian Succession, Act 1925, for the issue of grants of probate and letters of administration to companies, namely-

(1) In these Rules-

(a) "Share capital" includes stock; and
(b) "Trust business" means the business of acting as trustee under wills and settlements and as executor and administrator.

(2) The condition to be satisfied by a company in order to render it eligible for the grant of probate or Letters of Administration under the Indian Succession Act,1925, shall be the following, namely-

(1) The company shall be either-

(a) a company formed and registered under the Indian Companies Act, 1913, or under the Indian Companies Act, 1866, or under any Act or Acts repealed thereby, or under the Indian Companies Act, 1882, or a company formed under any other Act of the Governor General-in-Council or of the Indian Legislature, or
(b) a company constituted under the law of the United Kingdom of Great Britain and Northern Ireland or any part thereof, and having a place of business in India, or
(c) a company established by Royal Charter having a place of business in India.

(2) The company shall be a company empowered by its constitution to undertake trust business.

(3) The company shall have a share capital for the time being subscribed of not less than-

(a) rupees 10 lakhs in the case of a company of the description speci-

fied in sub-clause (a) of Clause (1), and

(b) pound 1,00,000 in the case of a company of the description specified in sub-clause (b) of Clause (1),of which at least one-half shall have been paid in cash :

Provided that the President may exempt any company from operation of this clause

CHAPTER XXXI

Arbitration Rules

1. Preliminary.—The rules contained in this Chapter are made under Section 44 of the Arbitration Act, 1940, hereinafter referred to as the Act.

2. Presentation of application under Arbitration Act, 1940.—All applications under the Act shall be made by petition and shall be presented to the Court in the same manner as a plaint or other application. The petition shall be verified in the same manner as a plaint and shall, if necessary, be supported by an affidavit.

3. Form of petition.—The petition shall be divided into paragraphs, numbered consecutively, and shall contain the name, description and place of residence of the petitioner as well as the opposite party, and a statement in summary form-

(a) of all material facts;

(b) of facts showing that the Court to which the application is presented has jurisdiction; and

(c) of the nature of the relief asked for;

and shall specify the names, descriptions and place of residence of other persons likely to be affected by it.

4. Statement of special case under Section 13 (b) of the Act.—(1) In a reference under Section 13 (b) of the Act, the question of law on which the opinion of the Court is sought and the facts out of which it arises shall be distinctly stated. A copy of the arbitration agreement if any shall be annexed to such reference. The arbitrators or umpire making the reference shall give notice of the action taken by them to the parties concerned.

(2) When the Court has pronounced its opinion under Section 14 (3) of the Act, a copy thereof shall be sent to the arbitrators or umpire making the reference and they shall have such opinion added to and made part of the award.

5. Cases to be registered as suits or miscellaneous cases.—A case in which the award is filed under Section 14 (2) or an application made under Section 20 (1) of the Act shall be numbered and registered as a suit. Other applications under the Act shall be numbered and registered as a miscella-

neous case.

6. Issue of notice.—After a petition has been presented the Court may, if it is not in order or according to law, reject it. If it is not so rejected, the Court shall direct notice thereof to be given to all persons mentioned in the petition and to such other persons as may seem to it to be likely to be affected by the proceedings, requiring all or any of such persons to show cause, within the time specified in the notice, why the relief sought in the petition should not be granted.

Such notice should be accompanied by such copies of the petition and the affidavit, if any, copies being supplied by the petitioner.

7. Payment of process-fees.—(1) The petitioner shall deposit the necessary process-fees for service of notice on the other parties concerned within seven days of the order directing the issue of notice or within such further time as the Court may, for sufficient cause shown, allow.

(2) The party who may have requested the arbitrators or umpire under Section 14(2) of the Act to cause an award to be filed shall, within seven days after the filing of the award or within such further time as the Court may, for sufficient cause shown, allow, deposit the necessary process-fees for the service of notice on the other parties concerned.

8. Mode of filing award.—(1) Where the award is filed by the arbitrators or umpire under Section 14 (2) of the Act they shall send to the Court under sealed cover the award or a signed copy thereof together with any proceedings or depositions and documents which may have been taken and proved before them and the opinion pronounced by the Court on the special case under Section 14 (3) of the Act, if any.

They shall also send with the award a copy of the notice given to the parties concerned under Section 14 (1) of the Act. If the sealed cover is sent by post, it shall be sent under registered cover.

(2) Where the award is filed by a party to the arbitration, any party may move the Court to direct the arbitrators or umpire to produce before it any proceedings or depositions and documents which may have been taken and proved before them together with record of the arbitration which may be in their possession.

9. Application under Section 20 (1) of the Act.—Every application under Section 20 (1) of the Act shall be accompanied by a copy of the arbitration agreement.

10. Issue of processes at the request of arbitrators or umpire.—(1) The Court shall cause processes to be issued to the parties to an arbitration proceedings or to witnesses on the written request of the arbitrators or umpire.

(2) If the proceedings are under Chapter II of the Act the request for the issue of such processes shall be accompanied by a copy of the agreement under which the arbitrators or umpire are acting.

11. Court-fees and process-fees.—Court-fees and process-fees chargeable with respect to all matters, under the Act shall, as nearly as may be, be in accordance with the provisions of the Court Fees Act, 1870, and the rules for the time being in force relating to the payment of such fees on the original side.

12. Procedure.—In matters not provided for in this Chapter the provisions of the Code and any rules governing the proceedings of the Court shall, so far as may be and with necessary modifications and adaptations, apply to all proceedings including appeals under the Act before the Courts.

13. Proceedings in subordinate Courts.—the rules contained in this Chapter shall, with necessary modifications and adaptations, also apply to proceedings under the Act in subordinate Courts.

CHAPTER XXXII

Rules Under Section 16 of the Indian Divorce Act, 1869

1. Decree nisi not to be made absolute for certain period.—A decree nisi shall not be made absolute till after expiration of a period of six months or such longer period as may be specially fixed by the Court at the time of the passing of the decree, from the pronouncing thereof.

2. Objections to *decree nisi* being made absolute.—(1) Any person other than the [officer] appointed under Section 17-A of the Indian Divorce Act, 1869, wishing to show cause against a decree nisi being made absolute may after obtaining the leave of the Court enter an appearance in the proceeding in which the said decree was pronounced, and at the same time file an objection, supported by affidavit, setting forth the facts upon which he relies.

(2) Copies of the objection and the affidavit shall thereafter be served upon the party in whose favour the said decree was pronounced or his Advocate and such party may within a time to be fixed by the Court file a reply supported by affidavit. The person showing cause against the said decree being made absolute may, within a further time to be so fixed, file a reply thereto.

(3) No such affidavit shall be required when cause is shown by the officer appointed under Section 17-A of the Indian Divorce Act, 1869.

Appendix to Chapter XXXII

Rules Under Section 17-A of the Indian Divorce Act, 1869

1. Short title.—These [Rules] may be called the Indian Divorce (Domiciled Parties) Intervention Proceeding Rules, 1928.

2. Definitions.—In these Rules, unless there is anything repugnant in the subject or context,-

"Act" means the Indian Divorce Act (IV of 1869);

"Officer" means an officer appointed under Section 17-A of the Act to exercise the like rights to showing cause that a decree for the dissolution of marriage should not be made absolute or should not be confirmed, as the case may be, as is exercisable in England by the King's Proctor.

"Pleader" means any person entitled to appear and plead for another in

court, and includes an Advocate, a vakil and an attorney of a High Court, and

"Proceeding" means a suit or proceeding under the Act.

3. Officers to take steps in proceedings.—(i) If any person during the progress of a proceeding or before the decree nisi is made absolute gives information to the officer or any matter material to the due decision of the case, the officer may take such steps as he considers necessary or expedient.

(ii) If, in consequence of any such information or otherwise, the officer suspects that any parties to the petition are or have been in collusion for the purpose of obtaining a decree contrary to the justice of the case, he may, after obtaining the leave of the Court, intervene and produce evidence to prove the alleged collusion.

4. Appearance in proceedings in which decree nisi pronounced.— (i) When the officer desires to show cause against making absolute a decree nisi, he shall enter an appearance in the proceeding in which such *decree nisi* has been pronounced and shall, within a time to be fixed by the Court, file his plea setting forth the grounds upon which he desires to show cause as aforesaid and a certified copy of his plea shall be served upon the petitioner or person in whose favour such *decree nisi* been pronounced or his pleader. On entering an appearance the officer shall be made a party to the proceedings and shall be entitled to appear in person or by pleader.

(ii) Where such plea alleges the petitioner's adultery with any named person a certified copy of the plea shall be served upon each such person omitting such part thereof as contains an allegation in which the person so served is not named.

(iii) All subsequent pleadings and proceedings in respect of such plea shall be filed and carried in the same manner as in respect of an original petition under the Act, except as hereinafter provided.

(iv) If the charges contained in the plea of the officer are not denied or if no answer to the plea of the officer is filed within the time allowed or if an answer is filed and withdrawn or not proceeded with, the officer may apply forthwith for the rescission of the decree nisi and dismissal of the petition.

(v) Where the officer intervenes and shows cause against a decree nisi in any proceedings for divorce, the Court may make such order as to the

payment by other parties to the proceeding of the costs incurred by him in so doing or as to the payment by him of any costs incurred by any of the said parties by reason of his so doing, as may seem just.

CHAPTER XXXIII

[1][* * *]

CHAPTER XXXIV

Rules under the Press (Objectionable Matter) Act, 1951

1. Application of Rules in Chapter XXXIII.—The Rules contained in Chapter XXXIII shall, so far as may be and with necessary adaptations and modifications, apply to applications made to the Court under Section 24 of the Press (Objectionable Matter) Act, 1951.

2. Reference, appeal or revision under Press (Objectionable Matter) Act, 1951.—A reference made under Section 21 (2) of the Press (Objectionable Matter) Act, 1951, shall be dealt with in so far as may be as a reference under Section 307 of the Code of Criminal Procedure, 1898, and an appeal or revision under that Act shall be dealt with in so far as may be as an appeal or revision under the same Code.

[1] Deleted by Not. No. 84/VIII-C-2, dated 16.02.1990

CHAPTER XXXV

References under the Chartered Accountants Act, 1949

1. Papers to accompany the finding of the Council.—The Council of the Institute (hereinafter referred to as the Council) when forwarding its finding to the Court shall submit along with it all the relevant papers which were before the Council and the Disciplinary Committee and in particular the following papers, namely-

(a) complaint or information;

(b) written statement of defence;

(c) deposition of witnesses;

(d) documents marked as exhibits;

(e) notes of the hearing before the Disciplinary Committee and the Council; and

(f) report of the Disciplinary Committee.

The Council shall submit to the Court along with its finding two extra copies thereof together with two extra copies of the papers enumerated above or their translations in English where such papers are not in English or in the language of the State.

The council shall also furnish to the Court the postal addresses of all persons on whom notices are required to be served under Section 21 (2) of the Act.

2. Fixing date of hearing.—On receipt of the finding of the Council and the papers mentioned in the preceding Rule the Registrar shall fix a date for the hearing of the case and shall forthwith issue notices in the prescribed forms at the addresses furnished by the Council under the next preceding Rule. Notices shall also be issued to the counsel and the central government. The notices shall also be sent by registered post so as to be served not less than fifteen days before the date fixed for the hearing of the case.

3. Constitution of the Bench for the hearing of the case.—The case shall be heard by a Bench consisting of not less than two Judges to be nominated by the Chief Justice.

4. Copy of final order to be sent to the Council and Central Government.—The Registrar shall send certified copies of the final orders of the Court to the Council and the Central Government.

[1][CHAPTER XXXV-A]

Rules Under the Trade and Merchandise Marks Act, 1958

1. Definitions.—In these Rules, "the Act" means the Trade and Merchandise Marks Act, 1958.

"Registrar of Trade Marks" referred to in Section 4 of the Act includes any such other officer as may be appointed to discharge the function of the Registrar in pursuance of Section 4 (2) of the Act.

2. Title of application.—All applications or appeals under any provision of the Act shall be entitled :

In the High Court of Judicature at Allahabad.

Application/Appeal under Section ..... of the Trade and Merchandise Marks Act, 1958.

..... *Applicant*

versus

..... *Opposite party/Respondent*

3. Mode of application.—All applications and appeals under the Act, shall be made by petition supported by an affidavit and shall be presented to the Registrar.

If the Registrar finds the application or appeal to be in order, he shall direct it to be placed before the Court for orders on the next working day.

4. Disposal by court at first hearing.—The Court may either admit the application or appeal so placed before it or reject summarily or make such order as the circumstances of the case may require.

5. Service on the Registrar of Trade Marks.—Notice of all applications or appeals admitted by the Court, shall be served on the Registrar of Trade Marks who shall have a right to appear and be heard and shall appear, if so directed by the Court.

6. Record of the case in appeal.—In all contested appeals from the decisions of

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[1] Subst. by Not. No. 338/VIII-C-159, dated 15.11.1961

the Registrar of Trade Marks, the petitioner and the respondent shall furnish to each other, within two weeks from the date of filing of the affidavit in reply, a list of the documents forming part of the record of the case before the Registrar of Trade Marks, on which they rely for the purposes of the hearing of an appeal. The petitioner shall prepare a duly indexed compilation of the documents relied upon by either side and furnish a copy thereof to the Court and to the other side.

7. Reference under Section 107 (2).—Where the Registrar of Trade Marks makes a reference to the Court under Section 107(2) of the Act, he shall give notice of the fact to the parties concerned. He shall also supply to the Court the postal addresses of all the persons concerned in the reference. After the reference has been filed, a date shall be fixed by the Registrar for the hearing of the same and notice thereof shall be given to the parties concerned.

8. Procedure for withdrawal of application under Section 109(7).— Where under Section 109 (7) of the Act, an applicant intends to withdraw his application, he shall give notice of the intention in writing to the Registrar of Trade Marks and to the other parties, if any, to the appeal, within one month after the leave referred to in that section has been obtained. He shall inform the Registrar also who shall fix a date for the disposal of the appeal as soon as possible.

9. Copy of order of Judgment to be sent to the Registrar of Trade Marks.—A certified copy of every order or judgment of the Court shall be communicated to the Registrar of Trade Marks.

10. Affidavits as evidence.—Affidavits shall be treated as evidence of the facts affirmed in them.

11. Application of the Code of Civil Procedure and Rules and Forms of the Court.—Matters not provided for in the foregoing Rules shall be governed by the provisions of the Code of Civil Procedure, 1908, and the Rules and Forms of the Courts, shall apply *mutatis mutandis* to all proceedings under the Act :

Provided that it shall not be necessary for the Court to frame issues.

[1][CHAPTER XXXV-B]

Rules under the Copyright Act, 1957

(Act No. XIV of 1957)

1. Application of Rules of Court and C.P.C.—Appeals Section 72 (2) of the Copyright Act, 1957, shall be governed *mutatis mutandis* by the Rules of Court, 1952 and by provisions of Order XLI of the Code of Civil Procedure and for such purpose such appeals shall be deemed to be appeals from orders.

2. Stay of proceedings.—The Court may, for sufficient reasons, direct that any proceedings in pursuance of the order appealed from shall remain stayed on such terms as it thinks fit.

[1] Added by Not. No. 5/VIII-C-164, dated 05.01.1959

[1][CHAPTER XXXV-C]

Rules Under the Banker's Books Evidence Act, 1891

(XVIII of 1891)

1. Scale of fees.—A Bank ordered under the Banker's Books Evidence Act, XVIII of 1891, to supply certified copies of entries from its books shall be entitled to charge on the following scale .—

Searching fee .—	For each year or part of year in respect of which search is made.....	Rs. 5.
[Copies] .—	For each bank folio or part thereof.....	Rs. 5.
Certificate .—	For the certificate under Section 6 of the Act.....	Rs. 5.

A bank folio for this purpose is a page of the Banks book of not less than 40 and not more than 50 lines.

2. Application how made.—An application shall be made for an order under the said Act and the Court or Judge may either pass an *ex parte* order granting it or direct that notice of it shall be served on the bank or banks named in it.

The application shall set out the particulars of the entries of which it is desired to obtain copies (or, if this is impossible, the year or years in which such entries appear) and their materiality.

3. Application made in insufficient time and procedure to be followed in such cases.—All applications shall be made in sufficient time to allow three clear day's notice required to be given by Section 6 (2) of the Banker's Books Evidence Act, and all applications made in insufficient time shall state the reasons thereof.

4. Service of order on Bank.—The party who has obtained such order shall serve it upon the Bank or Banks affected and at the same time pay to

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[1] Added by Not. No. 185/VIII-C-90, 28.04.1964

the Bank or Banks the searching fee.

5. Banks to make search and make out demand for fees for copies.—Upon service of the order the Bank or Banks shall forthwith cause search to be made and shall thereafter forthwith inform the party, who has obtained the order, the amount to be paid to such Bank or Banks for copies of the entries to be made in terms of the order.

6. Parties to pay for certified copies and certificates.—Thereupon the party concerned shall pay to the Bank or Banks the amount so stated and the fee for the certificate and the Bank or Banks shall upon receipt thereof forthwith prepare and deliver to the party the copies of the relevant entries together with the certificate under Section 6 of the Act.

7. Saving.—Nothing in the above rules shall be construed as derogating from the power of the court or the Judge to make such orders as to costs in particular cases as may seem appropriate to it or him under Section 7 of the Act.

[1][CHAPTER XXXV-D]

Rules Under Section 4 (E) of the Powers of Attorney Act, 1882

1. Presentation of Applications.—An application to deposit any instrument creating a power of attorney shall be made by a petition signed by the applicant which must be presented before the Registrar either by the applicant in person or by an advocate.

2. Verification of due execution.—The instrument creating power of attorney the execution whereof must be verified by affidavit, statutory declaration or other sufficient evidence shall be annexed to such petition. It will be received for deposit to the High Court being satisfied as to its due execution, but the Court may, before making an order for its deposit require further evidence of such execution.

3. Custody of the instrument of Power of Attorney.—On an order being made by the Court a power of attorney shall be deposited in the file maintained for keeping such documents. The Registrar shall have the custody of all such instruments.

Entries relating to instruments so deposited will be made in a register containing the following headings :

(i) Description of document.

(ii) Date.

(iii) By whom deposited.

(iv) Date of deposit.

(v) Remarks.

4. Inspection of the Register of Instrument.—Any person desiring to search the register of instruments so maintained or to inspect any such instrument shall be allowed to do so on his making an application to the Registrar to that effect and paying fee in the form of court-fee stamp, as prescribed hereinafter. A certified copy of the instrument may be issued to an applicant therefor on his/her making a proper application and paying the fee therefor as prescribed hereinafter.

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[1] Added by Not. No. 150/VIII-C-94, dated 11.03.1974

5. Certified copy of the instrument.—A copy of an instrument so deposited, if presented by a person in the office, may be stamped or marked as a certified copy on payment of the fee as prescribed therefor in the rules. The copy so stamped or marked, shall become and be a certified copy.

6. Evidentiary value of the certified copy.—A certified copy of an instrument deposited under Rule 2 above shall without further proof, be sufficient evidence of the contents of the instrument and its deposit in the High Court.

7. Table of fees.—The table of fees for purposes of this Chapter shall be as under :

(1)	For application for depositing an instrument creating a power of attorney	The fees as payable under Article D(e)(5) of Schedule-II of the Court Fees Act as amended in its application to Uttar Pradesh.
(2)	For search of register of instruments creating a power of attorney	Rs. 2.00
(3)	For inspection of such instruments	Rs. 2.00
(4)	For stamping or making a copy of such Instrument presented, as certified copy.	Rs. 2.00
(5)	For issue of a certified copy-	
	(a) Urgent	Rs. 4.00
	(b) Ordinary	Rs. 2.00

Notes.—(i) In addition to the fees prescribed in clauses (2), (3), (4) and (5) above, fee for applications for search, inspection and certified copies shall be payable as in the Court Fees Act as amended in its application to Uttar Pradesh.

(ii) The copies presented for stamping or making as certified copies in clause (4) above can be certified only when they are written or typed on stamp sheets of the value required under Article 24 of Schedule 1-B of the Indian Stamp Act, as amended in its application to Uttar Pradesh.

(iii) The stamp duty as payable under Article 24 of Schedule I-B of the Indian Stamp Act, as amended in its application to Uttar Pradesh, shall also be paid for issue of certified copies under clause (5) above.

[1][CHAPTER XXXV-E]

Rules framed Under Section 23 of the Contempt of Court Act, 1971

1. Introduction.—The Rules contained in this Chapter shall govern presentation and hearing of Contempt of Court cases coming to this High Court under the Contempt of Courts Act, 1971.

2. Nature of contempt to be indicated.—Every application, reference or motion for taking proceedings under the Contempt of Courts Act, 1971 shall mention at the head whether it relates to the Commission of 'Civil Contempt' or 'Criminal Contempt' :

Provided that, if there are allegations both of commission of Civil Contempt and Criminal Contempt against the same person/persons, two separate applications shall be moved, one dealing with Civil Contempt and the other with Criminal Contempt.

3. Facts to be stated in the motion or reference.—(1) Every such motion or reference made under Section 15 (1) of the Act shall contain in precise language the statement setting forth the facts constituting the contempt of which the person charged is alleged to be guilty and shall specify the date or dates on which the contempt is alleged to have been committed.

(2) Every motion made by the Advocate General under sub-section (2) of Section 15 of the Act shall state the allegations of facts and the view of the informant that in relation to these facts contempt appears to have been committed of which the Court should take cognizance and take further action. The motion should contain sufficient material to indicate why the Advocate General is inclined to move the court.

(3) (a) A petition for taking contempt of court proceedings shall be supported by an affidavit. In case of criminal contempt three copies of the application and the affidavit shall accompany the application :

Provided that if there are more than one opposite parties, the petition shall be accompanied by as many extra copies as there are opposite parties.

(b) When the petitioner relies upon any document or documents in his

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[1] Added by Not. No. 6/VIII-C—167, dated 24.11.1976

possession, he shall file the same along with the petition or a copy thereof as annexure to affidavit.

(c) A petition made under Section 15 (1) (b) of the Act shall also be accompanied by the consent in writing of the Advocate General and a copy thereof.

(4) Every petition is respect of criminal contempt, where it is not moved by the Advocate General and where the consent in writing of the Advocate General had not been obtained, and every petition in regard to criminal contempt of a subordinate court where no reference has been made by it and the petition is moved without the consent of the Advocate General shall clearly state the reasons why the consent in writing of the Advocate General could not be obtained and why the court has been approached to act *suomotu*.

[1][4. Civil and criminal contempt's presentation after stamp reporter.—(a) Every case relating to the Civil Contempt shall be presented before the Bench of a Single Judge constituted for that purpose.]

(b) Every case of criminal contempt coming under Section 15 of the Act shall be presented before the Bench of not less than two Judges constituted for the purpose.

(c) provided that every case of contempt of Court presented before the Court shall bear the report of the Stamp Reporter as to sufficiency of Court-fee paid and also about limitation. References relating to contempt of court received on Administrative side from the subordinate courts shall, along with the office report with respect thereto, be laid before the Chief Justice, who shall have the discretion to file the same or to order that the same be laid before the Bench concerned, [at Nainital as the case might be] for further proceedings in connection with the case.]

Substituted by Notification No. 152/UHC/Admn.—2002, dated 31.10.2002. Later superseded by No. 44/UHC/Admn. -A, 2003 dated April 15,2003

5. Issuance of notice.—Such allegations contained in the petition as appears to the Court to make out a *prima facie* case of contempt of Court against the person concerned, shall be reduced into charge or charges by

[1] Restored by Notification No. 44/UHC/Admin.-A, 2003 Dt. April 15, 2003

the Court against such person, and notice shall be issued only with respect to those charges:

Provided that the Court shall not issue notice if more than a year has elapsed from the alleged act of contempt of court.

6. Documents accompanied notice.—Where an order has been made directing that notice be issued to any person to show cause why he should not be punished for contempt of Court, a date shall be fixed for the hearing and a notice thereof in the prescribed form given to the person concerned. The notice of a criminal contempt shall also be served on the Government Advocate. The notice shall be accompanied by copies of the application, motion and the affidavit or a copy of the reference by a subordinate court as the case may be, and a copy of the charge or charges as framed by the court and [shall require the person concerned to appear either in person or through counsel unless otherwise ordered before the Court], at the time and on the date specified therein to show cause why he should not be punished for Contempt of Court. Notice of every proceeding under Section 15 of the Act shall be served personally on the person charged, unless the Court for reasons to be recorded directs otherwise.

7. Contempt in the presence of the Court.—When it is alleged or appears to the Court upon its own view that a person has been guilty of contempt committed in its presence or hearing, the Court may cause such person to be detained in custody, and at any time before the rising of the Court, on the same day or as early as possible thereafter, shall-

(a) cause him to be informed in writing of the contempt with which he is charged, and if such person pleads guilty to the charge, his plea shall be recorded and the Court may in its discretion, convict him thereon;

(b) if such person refuses to plead, or does not plead, or claims to be tried or the Court does not convict him, on his plea or guilt, afford him an opportunity to make his defence to the charge, in support of which he may file an affidavit on the date fixed for his appearance or on such other date as may be fixed by the court in that behalf;

(c) after taking such evidence as may be necessary or as may be offered by such person and after hearing him, proceed either forthwith or after the adjournment, to determine the matter of the charge; and

(d) make such order for punishment or discharge of such person as may be just.

8. Application for transfer of hearing to be placed before Chief

Justice.—Notwithstanding anything contained in Rule 7, where a person charged with contempt under that rule applies, whether orally or in writing to have the charge against him tried by some Judge other than the Judge or Judges in whose presence or hearing the offence is alleged to have been committed, and the court is of opinion that it is practicable to do so and that in the interest of proper administration of justice the application should be allowed, it shall cause the matter to be placed together with a statement of the facts of the case, before the Chief Justice for such directions as he may think fit to issue as respects the trial thereof.

9. Detention of contemnor during pendency of the proceedings.— Pending the determination of the charge under clause (c) of Rule 7 the Court may direct that the person charged with contempt under section 14 of the Contempt of Courts Act, 1971, shall be detained in such custody as it may specify.

10. Informant not to plead unless directed by the court.—After giving information about the commission of contempt of court by any person or persons, the informant shall not have any right to appear or plead or argue before the Court unless he is called upon by the Court specially to do so.

11. Bail in contempt case.—When any person charged with contempt appears or is brought before the High Court and is prepared, while in custody or at any stage of the proceedings, to give bail, such person shall be released on bail, if a bond for such sum of money as the Court thinks sufficient is executed with or without sureties conditioned that the person charged shall attend at the time and place mentioned in the bond and shall continue to so attend until otherwise directed by the Court :

Provided that the High Court may if it thinks fit, instead of taking bail from such person, discharge him on his executing a bond without sureties for his attendance as aforesaid, or without executing such bond :

Provided further that on the failure of a person to comply with the conditions of the bail bond as regards the time and place of attendance, the Court may refuse to release him on bail when on a subsequent occasion in the same case he appears before the Court or is brought in custody and every such refusal shall be without prejudice to the powers of the Court to call upon any person bound by such bond to pay the penalty thereof.

The provisions of Sections 422 to 448 and 450 of the Code of Criminal Procedure, 1973, shall so far as may be, apply to all the bonds executed under the Rule.

12. Attachment of property and warrant of arrest in certain cases.—The Court may, if satisfied that the person charged is absconding or likely to abscond or is keeping or is likely to keep out of the way to avoid service of the notice, order the attachment of his property of such value or amount as it may deem reasonable. In case of criminal contempt the Court may, in lieu of or in addition to the order of attachment of property, order issue of warrant of arrest of such person :

Provided that, in case the Court considers it fit and expedient, it may issue warrant of arrest in the first instance.

Such warrant may be endorsed in the manner laid down in Section 71 of the Code of Criminal Procedure. The attachment referred to above shall be effected in the manner provided in the Code of Civil Procedure, 1908 for the attachment of property in execution of a decree for payment of money. If after such attachment, the person charged appears and shows to the satisfaction of the Court that he did not abscond or keep out of the way to avoid service of the notice, the Court shall order the release of his property from attachment upon such terms as to costs or otherwise as it may think fit.

13. Paper book and issue of copies in contempt cases.—The rules contained in the Rules of Court pertaining to grant of copies and charging process fees in criminal matters and preparation of paper book in contempt of Court cases and such other matters in respect of which no provision has been made in this Chapter, shall apply *mutatis mutandis* to the proceedings under this Chapter and the appeals coming under Section 19 of the Act. Similarly when proceedings are pending in subordinate Court, the Rules made by the High Court for conduct of business of such subordinate Courts shall apply to those proceedings.

14. Costs.—Where costs have been awarded by the Court in proceedings for contempt of court but have not been paid, the person entitled to them may apply to the Court for execution of the order. The application shall be accompanied by an affidavit stating the amount of costs awarded and the amount, remaining unpaid, and it shall be laid before the Court for orders. The Court may direct the Chief Judicial Magistrate to realise the amount due by himself or by any Magistrate subordinate to him. Such amounts shall be realised as if it were an amount of fine.

Part VIII - Miscellaneous - Chapters XXXVI to XLI

CHAPTER XXXVI

Deposit and Repayment of Money

1. Heads of account.—Money received and paid shall be classified under the following heads of account, namely-

(1) Civil deposits, including-

(i) sums deposited in lieu of security in Supreme Court Appeals and other cases under the orders of the Court:

(ii) [1][* * *];

(iii) unexpended balances of miscellaneous receipt under Rule 9;

[2][(iv) Sums deposited towards rent, damages, interest and costs etc. in any appeal or revision under Section 40 read with Section 39 of U.P. Act XIII of 1972 or similar other provisions.]

(2) Miscellaneous deposits, including-

(i) travelling and other expenses of witnesses;

(ii) [3][* * *].

(iii) fees and incidental charges of Commissioners, Arbitrators, etc.

(iv) copying charges received by money order;

(v) fee of Government Examiner of Questioned Documents.

(3) Government credit, including-

(i) sums paid in connection with the preparation of type written paper books;

(ii) sums to be credited to Government out of the sums deposited under head (ii) of this Rule;

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[1] Deleted by Not. No. 383/VIII-C-21, dated 18.10.1989

[2] Added by Not. No. 211/VIII-C-90, dated 27.04.1974

[3] Deleted by Not. No. 383/VIII-C-21, dated 18.10.1989

(iiI) fines, stamp duties and penalties;

(iv) sale proceeds of forms, waste paper and useless furniture, rent of chambers realised from Advocates and rent for the use of the premises realized from food vendors;

(v) sale proceeds of paper-books;

(vi) sums deposited by parties for summoning records; and

(vii) copying charges paid in cash for the preparation of copies of books, registers, maps or plans.

2. Payment of cash by tender.—Payment of money into Court shall ordinarily be made in cash accompanied by a copy of the prescribed tender form [1][(Form No. 197)] in triplicate duly filled in Hindi or English by the payer.

3. Presentation of tender.—The payer shall present the form to the Deputy Registrar ordinarily between the hours of 10 and 11 a.m. The Deputy Registrar shall call for a report from the official in charge of the record of the case as to the correctness of the amount, the nature of payment tendered and the number of the case, if any, as entered in the form and whether the payment is due from the person on whose behalf it is tendered. After such corrections as may be found necessary have been made the Deputy Registrar shall put his signature on the tender form as well as sign the order to the cashier to receive and credit the amount if tendered to him within three days. Thereafter the tender form shall be returned to the payer for presentation and payment of the money to the cashier.

The Deputy Registrar shall ensure that the tender form is ordinarily returned duly signed to the payer the same day by 12.30 p.m.

4. Payment to Cashier.—On receiving the tender form and the money from the payer the cashier shall put his signature on the three portions of the form in acknowledgement of the payment and hand over the last portion of the form to the payer by way of receipt. The second portion of the form shall be retained by him and pasted in the file book. He shall put the serial number for the entry made by him in the day book on the first portion of the form and forward it to the [2][Section Officer, Accounts (A) De-

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[1] Inserted by Not. No. 369/VII-C-90, dated 22.12.1961

[2] Subst. by Not. No. 383/VIII-C-21, dated 18.10.1989

partment] who shall send it without delay to the official concerned to be placed on record of the case.

5. Time for payment.—The time for the payment of money to the Cashier shall be from 10 a.m. to 2 p.m.

6. Payment by money order.—Payment of money into Court may also be made by money order addressed to the Deputy Registrar.

The money order shall be received by the cashier and entered in the register of money orders, and the register and the money order shall be laid before the Deputy Registrar for signature. A tender form in triplicate, and the procedure laid down in the preceding Rules shall, so far as may be, be followed.

7. Deposit to be sent to State Bank of India.—Sums deposited under heads (1) [1][* * *], (3) [2][and (4)] of Rule 1 shall be entered at once in their respective receipt registers and sent to the State Bank of India daily along with the pass book and a duplicate copy of the entries made therein. The copy shall after comparison with the pass book be retained by the Bank and forwarded to the Treasury in due course, the pass book being returned to the Court.

8. [3][* * *]

9. Disbursement of miscellaneous deposit.—Sums deposited under head (2) of Rule 1 shall be entered at once in the register of miscellaneous deposits and repayments.

Sums deposited under sub-heads (iv) of head (2) of Rule 1 shall be sent to the Treasury as soon as possible and credited to the Central Government under the appropriate head.

Sums deposited under other sub-heads shall be retained by the cashier if the money is expected to be disbursed soon; otherwise the money shall be credited to the personal ledger account maintained at the Treasury in the name of the Deputy Registrar and may be withdrawn as required by means of a cheque signed by the Deputy Registrar for the purpose of disbursement. In such case before the money is actually disbursed it shall

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[1] Omitted by Not. No. 211/VIII-C-90, dated 27.04.1974

[2] Amended by Not. No. 211/VIII-C-90, dated 27.04.1974

[3] Deleted by Not. No. 383/VIII-C-21, dated 18.10.1989

again be entered in the register to which such deposit relates.

Unexpended balances which remain undisbursed shall be deposited under head (ii) of Rule 1 (1) under the orders of the Registrar.

10. Manner of repayment.—The payment of sums entered under head (2) of Rule 1 may be made by the Cashier in cash or when the amount does not exceed Rs. 100 by postal money order under the orders of the Deputy Registrar after deducting money order commission therefrom.

11. Repayment orders.—The repayment of sums entered under head (1) or (3) [1][or (4)] of Rule 1 shall be made by means of repayment order upon an application in the prescribed form under the orders of the Registrar or the Deputy Registrar.

12. Presentation of application for repayment.—Every application for repayment under Rule 11 shall be signed by the person to whom the money is repayable or by the person duly authorized by him by a general or special power of attorney. Where the person signing the application is not known to the Deputy Registrar, his signature shall be witnessed by an Advocate or any other person known to the Deputy Registrar.

If the applicant desires that the money be paid on his behalf to his Advocate, he shall sign a declaration on the form that the money be paid to such Advocate. Such Advocate shall also put his signature on the form.

The applicant shall fill up columns 1 to 4 of the form. If the precise amount due to him is not known, column 4 need not be filled up. The application shall bear the necessary Court-fee stamps and shall be presented to the Deputy Registrar during working hours.

13. Identification of applicant.—If the person to whom the money is payable appears in person and is not personally known to the Deputy Registrar no order for repayment shall be made until he has been identified by an Advocate or any other person known to the Deputy Registrar.

14. Repayment by money order.—Where the sum to be repaid does not exceed Rs. 500 and the applicant desires that the money be remitted to him by money order, he shall add to the application a request to that effect and mention the address at which the money is to be remitted to him. He may instead of presenting such application to the Deputy Registrar forward it to him by post after obtaining thereon the countersignature of a

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[1] Added by Not. No. 211/VIII-C-90, dated 27.04.1974

Judge, Munsif or Magistrate as to his identity under the seal of the Court. In such case the money repayable less money order commission shall be remitted to him by money order at the address given in the application.

If the applicant is serving in the Army, Navy or Air force the counter-signature as to his identity by his commanding Officer will be sufficient for the purpose of this Rule.

15. Order by Court in certain cases.—In the case of appeals to the [1][* * *] Supreme Court [2][or appeals and revisions under Section 40 read with Section 39 of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, XIII of 1972 to this Court] the Deputy Registrar shall before making an order of repayment obtain an order of the Court, as to such repayment. The Deputy Registrar or the Court may before making an order of repayment direct notice to issue to any person or persons to show cause why such repayment should not be made.

16. Order of payment.—If the application is found by the Deputy Registrar to be incorrect or defective he may get it corrected by the applicant. The Deputy Registrar shall thereafter satisfy himself after calling for an office report that the repayment is due [3][* * *]. He shall also obtain a certificate from the [4][Section Officer, Accounts (A) Department] showing that there is no order of attachment or stop order in force affecting such money or any part thereof.

On being satisfied that any repayment is due to the applicant, he shall make an order or repayment and thereafter a repayment order shall be prepared in the proper form.

Where it is considered desirable that repayment should be made through a bank, the repayment order shall be sealed with the seal containing the words "Recoverable through a bank".

Where it is found that no money is payable to the applicant the application shall be rejected and placed on the record of the case.

17. Repayment to be promptly made.—It shall be the duty of the Deputy Registrar to see that applications for repayment are promptly dealt

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[1] Omitted by Not. No. 211/VIII-C-90, dated 27.04.1974

[2] Added by ibid

[3] Deleted by Not. No. 383/VIII-C-21, dated 27.04.1991

[4] Added by ibid

with and a repayment order should ordinarily be ready for delivery to the applicant not later than one week from the date of the application.

18. Counting of cash balance.—(1) The cash balance in the hand of the Cashier shall be counted at least once every month by the Registrar. The counting shall also be done on the last working day of each month immediately after the closing of the cash account of the month or on the first working day of the following month before any disbursement is made on that day. This counting may be done by the Deputy Registrar.

(2) When the aggregate cash balance in the hand of the Cashier exceeds one-half of the amount of his security and is not capable of immediate reduction, the excess shall be remitted in a lump sum to the treasury as a civil deposit.

19. Registers.—The Cashier shall keep the following registers, namely-

(1) Day-book.

(2) Cash-book.

(3) pass-book.

(4) Register of Money Orders.

The Section Officer, Accounts Department, shall keep the following registers, namely-

(1) Register of Receipts and Repayments of Civil Deposits;

(2) Register of Miscellaneous Deposits and Repayments;

(3) Register of Government Credits;

(4) Register of Personal Ledger Account;

(5) Contract Contingent Register;

(6) Non-contract Contingent Register;

(7) Register of Sales of Paper-books; and

(8) Register of Rents.

20. Acquittance rolls.—The Cashier shall also maintain the acquittance rolls.

The Section Officer, Accounts Department shall also maintain a Regis-

ter of Works, where necessary.

21. Annual lists of unpaid deposits.—Early in the month of February every year the registers of receipt and repayments of deposits shall be carefully examined by the Section Officer, Accounts Department, and a list shall be prepared of-

(i) (a) all deposits not exceeding rupees five which have remained in deposit from a date prior to April 1 of the preceding year; and

(b) all unpaid balances not exceeding rupee one of all deposits which have been partly repaid, and

(ii) all deposits and unpaid balances of deposits which had on the first day of February remained in deposit from a date more than two years prior to April 1 of the preceding year.

The list shall be affixed on the notice board in a conspicuous part of the Court-house with a notice stating that the items mentioned therein would lapse to Government if they are not withdrawn before April 1 following and that such lapsed deposit cannot thereafter be repaid without the sanction of the Accountant General.

[1][**22. Repayment application received from Subordinate Courts.—** If an application for repayment of money is forwarded by a subordinate Court to the Court under Rule 300 of the General Rule (Civil), 1957, Volume 1, the Munsarim concerned shall, on its receipt, certify under his signature the particulars required in columns 5 to 8 of the application form and shall return it forthwith to the Court from which it was received.]

[1] Added by Not. No. 121/VIII-C-90, dated 07.04.1962

CHAPTER XXXVII

Processes and Process-Fees

1. Process fees - Original jurisdiction.—The scale of fees chargeable for serving or executing any process issued by the Court in exercise of its matrimonial, testamentary and intestate, or original civil jurisdiction, ordinary or extraordinary, shall be double the scale of such fees chargeable in the Court of the district Judge under the rules in force for the service or execution of such processes.

2. Process fees - Appellate jurisdiction.—(1) The fees chargeable for serving and executing processes issued by the Court in exercise of its civil appellate jurisdiction shall be as follows :

(a) Notice of appeal or other notice to respondents, where the number of respondents to be served is not more than four - one fee of [1][eight rupees].

Where the number of such respondents is more than four, the fee above mentioned shall be charge for the first four together with an additional fee of [1][two rupees] for every respondent in excess of four [2][* * *].

(b) Summons to witnesses, where the number of witnesses to be served is not more than four - one fee of [1][six rupees].

Where the number of such witnesses is more than four, the fee above mentioned shall be charged for the first four together with an additional fee of [1][one rupee] for every witness in excess of four.

(c) Warrant of arrest, in respect of each person to be arrested [1][ten rupees].

(d) Notice, proclamation or injunction or other order, not otherwise provided for, where the number to be served is not more than four - one fee of [1][eight rupees].

Where the number is more than four, the fee above mentioned shall be charged for the first four together with an additional fee of two rupees for

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[1] Subst. by Not. No. 383/VIII-C-21, dated 10.10.1988

[2] Deleted ibid

every process in excess of four [1][* * *].

(2) Sub-rule (1) shall, with necessary modifications and adaptations, also apply to fees chargeable for serving and executing processes in exercise of the Court's civil revisional jurisdiction.

3. When fee not chargeable.—Notwithstanding anything contained in Rules 1 and 2, no fee shall be charged for-

(a) serving or executing any process issued by the Court of its own motion unless the Court orders that the process-fee be paid by any party; or

(b) serving or executing any process issued in consequence of the adjournment of a case otherwise than at the instance of a party; or

(c) affixing a copy of a notice, summons, proclamation or order in a Court-house or a public office; or

(d) serving or executing an order upon an officer-in-charge of a jail directing him to detain or release a person committed to his custody; or

(e) serving or executing any process or order in connection with a departmental inquiry.

4. Process not to issue unless fee paid.—No process in respect of which a fee is chargeable under Rule 1 or 2 shall be issued unless the requisite fee has been paid.

5. Fees to be paid in Court-fee stamps.—(1) Fees shall be paid in Court-fee stamps shall be affixed to the application by which the Court is moved to issue the process, or, if there be no such application, to the memorandum of appeal or cross-objection or the application initiating the proceeding :

[2][Provided that in case of non-availability of court fee stamps for purposes of payment of process fee, such fee shall, within the prescribed period, be deposited in accordance with the provisions of Section 25-A of the Court Fees Act, 1870.

(2) Where an application is made for issue of process, the Court-fee paid on the application itself shall not be regarded as part of such process

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[1] Deleted by Not. No. 383/VIII-C-21, dated 10.10.1988

[2] Added by Not. No. 792/VIII-C-36, dated 19.11.1975

fee.]

6. Service of process beyond Courts jurisdiction.—(1) Where the court sends a process for service or execution to any Court beyond its jurisdiction it shall endorse thereon a certificate that the fee chargeable under the rules has been levied, so that it may be served or executed free or further charge by the Court to which it is sent.

(2) Where any extraordinary local expenses, such as, boat hire, have to be incurred in the service or execution of such process, a sum sufficient to cover such expenses shall be paid in cash by the party concerned and sent by postal money order to the Court to which the process is sent for service or execution.

7. Fees for process to be issued by another Court.—Fees for processes to be issued by the court to which a commission is issued shall be payable in accordance with the rules of such Court. They shall be paid in cash by the party concerned and sent by postal money order to that Court.

8. Refund of process-fee when process not issued.—Where in consequence of a compromise or for some other reason, it becomes unnecessary to issue any process for which a process-fee has been paid and such process has not been issued, one-half of the process fee shall be refunded to the party concerned provided that an application for such refund is made before the Court-fee stamps by which such process-fee was paid are destroyed.

Save as provided above no fee paid in respect of process shall be refunded after the order directing the issue of such process has been made.

9. Fees paid to be costs in the cause.—Except as otherwise provided by these rules or ordered by the Court all fees and charges paid in accordance with the preceding Rules shall be costs in the cause:

Provided that no fees or charges which have been refunded or in respect of which a party might on application have obtained an order for refund, shall be deemed to be fees or charges paid within the meaning of this Rule.

10. Cost of summoning record.—The cost of summoning a record shall be [1][rupees ten] and Rules 3 (a) and (e) 4, 5 (2) 6, 7, 8 and 9 shall so

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[1] Subst. by Not. No. 383/VIII-C-21, dated 18.10.1989

far as may be and with necessary modifications and adaptations apply thereto. Such cost shall be paid in cash to the Cashier.

CHAPTER XXXVIII

Registers

1. Institution register.—A separate register of institutions in the prescribed form shall be kept for each of the following classes of cases, namely-

(1) First Appeals.

(2) Execution First Appeals.

(3) Second Appeals.

(4) Execution Second Appeals.

(5) Appeals from Orders.

(6) Civil Revisions.

(7) Application for Review of Judgment.

(8) Matrimonial References.

(9) Matrimonial Suits.

(10) Testamentary Cases.

(11) Testamentary Suits.

(12) Company Cases.

(13) Other Original Suits.

[1][(14) Tax Writ.

(15) Tax Cases.]

(16) Special Appeals.

(17) Applications for Leave to Appeal to Supreme Court.

(18) Civil Miscellaneous Cases.

(19) Criminal Appeals.

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[1] Added by Not. No. 659/VIII-C-141, dated 15.07.1976

(20) Criminal Revisions.

(21) Criminal References.

(22) Cases under [1][Section 366 of the Code of Criminal Procedure, 1973].

(23) Criminal Miscellaneous Cases.

[2][(24) Caveat.]

Cases shall be entered in the register according to the date of admission and no defective case shall be entered therein.

2. Progress register.—A record of the progress made in each case shall be maintained and a brief note made of the orders passed in the case from time to time and the dates, when and the manner in which such orders are complied with.

Unless such entries can conveniently be made in the register of institutions, a separate progress register shall be maintained in the prescribed form for each class of cases mentioned in Rule 1.

3. Register of defective cases.—A register in the prescribed form shall be maintained of all defective cases under Clauses (1), (2), (3), (4), (5), (6), (13) and [3][(16)] mentioned in Rule 1 and of all criminal appeals and revisions received from prisoners confined in jail through the Officer-in-charge of such jail. The cases shall be entered therein according to the date of presentation and as record kept of the steps taken from time to time to remove the defect.

As soon as the defect has been removed and the case admitted, it shall be entered in the appropriate register of institutions.

4. Register of interlocutory applications.—A register in the prescribed form shall be kept of all interlocutory applications mentioned in Rule 2 (1) of Chapter IX.

5. Alteration in form of Registers.—The Registrar may, with the approval of the Chief Justice, make such alteration, addition or substitution in the form of any register as may be found necessary.

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[1] Subst. by Not. No. 383/VIII-C-21, dated 18.10.1989

[2] Inserted by ibid

[3] Substituted by Not. No. 659/VIII-C-141, dated 15.07.1976

CHAPTER XXXIX

Inspection of Records

1. Removal of record from Court building.—No record of any case shall be removed from the Court building except under an order in writing of a Judge or the Registrar:

Provided that if a Judge requires a record at his residence he may take it. The official in whose custody the record is, shall keep a note of the date when the Judge takes the record and the date when he returns it.

2. No inspection of record in Administrative Department.—No record or paper in the Administrative Department shall be inspected by any person other than a Judge or gazetted officer of the Court except under an order in writing of the [1][Chief Justice].

3. Inspection of record in Judicial or Criminal Department.— Except as provided in Rule 17 of Chapter VI [2][* * *] no record or paper in the Judicial or Criminal Department shall be inspected by any person other than a Judge or a gazetted officer of the Court without an order in writing of a Judge, the Registrar or the Deputy Registrar.

4. Time of inspection.—Any person permitted to inspect a record may inspect it between the hours of 11 a. m. and 3 p. m. on such day or days for which permission is given.

5. Place of inspection.—No inspection of the record of a criminal case shall be made except in the room of the [3][Section Officer], Criminal Department and in his presence of that of his assistant and no inspection of the record of a civil case shall be made except in the room of the Inspection Clerk and in his presence.

6. Inspection by a party.—Any party to a case or the Advocate or recognized agent of such party may apply for an order for inspection by himself or in the case of an Advocate by his registered clerk, of the record of such case or any paper or papers contained therein :

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[1] Subst. by Not. No. 383/VIII-C-21, dated 18.10.1989

[2] Deleted by ibid

[3] Subst. by ibid

Provided that a party which has been ordered to file a written statement shall not be entitled to inspect a written statement filed by another party until it has first filed its own.

7. Inspection by a stranger.—(1) A person other than a party to a case may also apply for an order for the inspection of a record or any paper or papers contained therein provided he clearly states in his application the reason why such inspection is desired.

(2) Such person shall not be entitled as of right to obtain an order for inspection and shall in no case be allowed to inspect any exhibit on the record except with consent in writing of the person by whom such exhibit was filed or by his successor-in-interest. Such consent shall be filed along with the application for inspection.

8. Form of application.—Every application for inspection shall be on the printed form and shall specify clearly-

(a) the particulars of the record or paper of which inspection is desired;

(b) the party or the person on whose behalf the application is made;

(c) the name of the person by whom inspection is to be made; and

(d) whether the application is an ordinary or an urgent one.

9. Fees.—The fees for the inspection of records in civil and criminal cases shall be paid in Court-fee labels in accordance with the following scale namely;

(a) By a party, his Advocate or agent-

(i) Ordinary - [1][rupees five]

(ii) Urgent - [2][rupees ten]

(b) By stranger - rupees [3][ten]

Provided that no fee shall be charged in the case of-

(a) an ordinary application by a party or on his behalf, in a pending criminal case;

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[1] Subst. by Not. No. 516/XD-188, dated 30.11.1996

[2] Subst. by ibid

[3] Subst. by Not. No. 383/VIII-C-21, dated 18.10.1989

(b) from officers of Government whose duty it is or who may have been empowered by Government to make inspection of records or from any person specially exempted from the payment of such fee by the Chief Justice.

10. Time of application.—Every application for inspection shall be made before the Deputy Registrar on a working day between the hours of 10 a.m. and 1 p.m. and shall bear Court-fee labels as provided in Rule 9 :

Provided that a fresh application for the inspection of the same record on the next day shall be entertained upto 3.30 p.m.

11. Order of inspection.—Every order for the inspection of a record shall specify the record or the paper or papers of which inspection is allowed and shall state the name of the person or persons who may make such inspection.

12. Application to be forwarded to [1][Section Officer] concerned.— After an order for inspection has been made the Deputy Registrar shall forward the application to the [1][Section Officer] of the department concerned.

13. Application to be numbered, initialed and registered.— The [1][Section Officer] or one of his assistants shall number and initial the application and enter it in a register in which, the following entries shall be made, namely-

(a) serial number of the application and the nature of inspection (ordinary or urgent);

(b) particulars of the record or paper inspected;

(c) date of the order of inspection;

(d) date of inspection;

(e) name of each person inspecting the record;

(f) the date of receipt of record or paper and the date of its return; and

(g) remarks if any.

14. Ordinary and urgent application.—Inspection on an ordinary application shall be allowed on the day following the day on which the ap-

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[1] Subst. by Not. No. 383/VIII-C-21, dated 18.10.1989

plication is made or on a subsequent day mentioned in the order. Inspection on an urgent application shall be allowed on the same day:

[1][Provided that if inspection is not made on the specified date, the officer in whose presence the inspection was to be made shall before returning the record make an endorsement under his signature on the inspection application that the inspection has not been made.]

15. No pen, ink etc. to be brought into the inspection room.—The officer before whom the inspection is made shall not allow any person inspecting a record or paper to bring into the room any pen or ink or to make any mark upon, or in any respect to mutilate any record or paper before him. No person other than the person or persons named in the order of inspection shall be allowed to enter the room where inspection is made, [2][and immediately after the inspection has begun the officer shall make an endorsement on the inspection application indicating the name of the person or persons making inspection and also the date of inspection]. The signatures of the person or persons making inspection shall also be obtained on the inspection application.

16. Inspection of register.—(1) No one other than a Judge, the Registrar or other gazetted officer of the Court may inspect any register except on an order in writing of the Registrar and in the presence of the officer whose duty it is to keep such register; and no one other than a Judge or the Registrar may inspect any confidential register.

(2) The fee for the inspection of a register in the Judicial or Criminal Department shall be [3][rupees five]. In other respects the Rules contained in this Chapter with reference to the inspection of record in any case or proceeding shall with necessary modifications and adaptations apply to the inspection of a register.

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[1] Added by Not. No. 26/VIII-C-82, dated 21.11.1977

[2] Added by ibid

[3] Subst. by Not. No. 516/xd-188, dated 30.11.1996

CHAPTER XL

Copies

1. Copy not to be made without order.—Except as otherwise directed by these Rules or by a Judge, no copy shall be made or permitted to be made of any record or of any paper in any record, without an order of the Court, the Registrar or the Deputy Registrar on an application made as hereinafter provided.

2. Application for copy.—Every application for copy shall be presented in person or sent by post to the Deputy Registrar:

Provided that an application for copy by a stranger to the case to which the paper of which a copy is sought relates shall be presented in person to the Registrar-

(a) when it is made before the passing of the final decree or order in the case; or

(b) when the copy required is of an exhibit in the case, whether the application is made before or after the date of the passing of the final decree or order.

3. Contents of application.—Every application for copy shall be written on the prescribed form and shall state-

(a) the name and address of the applicant;

(b) whether the applicant is a party to the case to which the paper of which a copy is sought relates;

(c) whether the application is an ordinary or an urgent one;

(d) whether the copy is to be sent by post;

(e) full particulars of the paper of which a copy is sought and the record, in which it is contained mentioning in the case of an appeal, revision or reference, the district, in which the case under appeal, or revision was decided or from which reference was received;

(f) whether the case has been finally disposed of and the date of decision or final order, if any;

and when the applicant is not a party to the proceeding-

(g) the purpose for which the copy is sought.

4. Copy by post.—Where it is desired that the copy or where the application is rejected, notice of its rejection be sent to the applicant by post, the address at which such copy or notice may be sent shall also be given in the application and postage stamps of the requisite value shall be attached thereto Where the cover is required to be sent by the registered post the fact shall be stated in the application and extra postage stamps sufficient to cover registration charges shall also be attached to the application.

5. Time of presentation.—All application for copy shall be received between the hours of 10 a.m. and 1 p.m. The Registrar or the Deputy Registrar, as the case may be, may in exceptional circumstances [1][if ordered by a Judge in writing] receive any application after 1 P.M.:

[2][Provided that no application for issue of a certified copy of bail, injunction or stay or any other interim order shall be entertained unless it bears an office report certifying that the requisite number of copies meant for service on opposite party/parties as contemplated by Rule 11(1) of Chapter IX and Rule 6 of Chapter XVIII of these Rules, together with the requisite process free have already been received and are on the record].

After receiving such application the Registrar or the Deputy Registrar, as the case may be, shall endorse on them under his initials the date of receipt, pass order granting the applications and forward them to the Section Officer of the Copying Department. The Section Officer or his assistant shall without delay put serial numbers on them and enter them in the register of applications for copies mentioned in Rule 21.

6. Copy of written statement.—A party which has been ordered to file written statement shall not be entitled to take a copy of a written statement filed by another party until it has first filed its own.

7. Application by stranger.—An application by a stranger to the case for the copy of an exhibit whether the application is made before or after the passing of the final decree or order or for the copy of any other paper when it is made before the passing of the final decree or order in the case, shall not be granted unless the Registrar is satisfied that there is sufficient reason for granting it.

The Registrar may refer any application under this Rule to the Judge

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[1] Added by Not. No. 217/VIII-C-61, dated 19.04.1980

[2] Added by Not. No. 164/VIII-C-178, dated 24.03.1976

appointed to receive applications for orders.

8. Grant of copy of exhibit to stranger.—No order for a copy of an exhibit shall be made on the application of a stranger to the case in which such exhibit was filed, unless the application is accompanied by a properly authenticated consent of the person by whom such exhibit was filed to the grant of such copy.

9. Copy of deposition which is being recorded before the Court.— Where an application is made for the copy of deposition which is being recorded before the Court, the Deputy Registrar shall refer it to the Bench concerned for orders.

If the application is granted, the ordinary procedure shall be followed except that only such portion of the deposition shall each day be given to the Section Officer of the Copying Department as may reasonably be expected to be copied out during the day. At the close of the day the Section Officer shall return it to the Bench Secretary concerned.

In the case of an urgent application, if the Court so directs, such copy may be prepared by the judgment clerk by whom the deposition is taken down in shorthand and shall be issued by the Section Officer after he has compared it with the original. At the request of the applicant uncertified copies of such deposition may be issued without such comparison by the Section Officer to avoid delay.

[1]**[9A. Copy of the order sheet or part thereof.—**Where an application is made for a copy of the entire order sheet, the same may be issued, Where, however, an application is made for a part of the order-sheet, the copy of only that part shall be issued which is signed by the Judge or Registrar as the case may be.]

10. No charge for copy in certain cases.—Notwithstanding anything contained in these Rules, the Registrar may order a copy of any paper on a record to be made and delivered free of charge upon an application on behalf of a Government or the head of any Department of a Government in India or any High Court in India, or any authority in India, exercising jurisdiction similar to that of a High Court or any Court subordinate to this Court, or any principal Court in any other country.

11. Free copy.—(1) A copy of the original or appellate decree in a

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[1] Added by Not. No. 383/VIII-C-21, dated 18.10.1989

pauper suit or appeal or application may be supplied free of charge on application to a Government law officer.

(2) A copy of the whole or any part of the record, when required for the purposes of conducting any trial or investigation or any judicial proceeding on behalf of the Government in a criminal case may on application be supplied free of charge to a Government law officer.

If, however, the Registrar considers that the demand made is in excess of what is necessary for the purpose stated in the application, he may refuse to grant free of charge any or all the copies applied for.

(3) A copy of the judgment or order in a criminal case may be supplied free of charge to a prisoner confined in a jail on an application received through the officer-in-charge of the jail concerned.

If the application is made through a friend acting or purporting to act on behalf of the prisoner it shall be sent to the officer-in-charge of the jail concerned to be attested by the prisoner and when so attested, it shall be treated as the prisoner's own application.

12. Confidential papers.—No copy of, or extract from any minute, letter or document on any administrative or confidential file of the Court shall be issued except under an order in writing of the Chief Justice countersigned by the Registrar. Every such order shall be kept in a file by the Registrar and he shall make a note thereof duly dated and signed by him on such minute, letter or document.

No copy of or extract from, the minutes book of the Administrative Committee shall be given except in accordance with any resolution passed at a meeting of the Committee.

13. Copy of copy.—No copy shall be given of any document which is itself a copy except for special reasons to be recorded on the application by the Registrar or the Deputy Registrar, as the case may be. Where a copy of a copy is given the fact that it is such copy shall be noted in red ink on the top of each page of such copy.

14. Delivery of copy to registered clerk.—An application for copy duly signed by an Advocate may be presented by his registered clerk and the copy when ready may be delivered to the clerk presenting such application.

15. Copy of document in a language or character not current in the State.—Where an application is made for a copy of any document in a

language or character with which no copyist on the establishment of the Court is acquainted the Registrar shall, if possible, arrange for the preparation of a copy by any competent person acquainted with such language or character, who may, in his opinion, be relied upon for the purpose. In such case the person preparing the copy shall verify it in the following manner, namely-

"I, A.B., declare that read and understand the language and character of the original and that the above is a true and accurate copy thereof."

If no such person can be found the Registrar may send the document together with a copy of this rule to a Court in another State where such language or character may be in use and request it to have the copy made. Any additional charges incurred shall be borne by the applicant.

If agreed to by the person applying for such copy the Registrar may, instead, have a photographic copy prepared of such document, if possible, on payment by the applicant of all such additional charges as may be incurred.

16. Application to be accompanied by stamp labels.—[1]**[**Except in a case where no copying fee is chargeable under these Rules, every application for copy shall be accompanied by adhesive copy stamp labels of the requisite value and the copy shall be supplied after the affixation of the copy stamps labels on it.]

17. Scale of charges.—[2]The following scale of charges is prescribed for copies; namely-

	Ordinary Copy Rs.	Urgent Copy Rs.
Interlocutor order	5.00	10.00
Judgment or final order	5.00	10.00
Deposition	5.00	10.00

[1] Substituted vide Noti. No. 157/UHC/Admn. -A, 2008 dated July.31,2008.

[2] Subst. by Not. No. 516/xd-188, dated 30.11.1996

Deed of agreement in writing or a general power of attorney	5.00	10.00
Any other paper except a book, register, map or plan or any extract thereof	5.00	10.00
Decree or formal order	5.00	10.00]

[1]**[Note ***]**

[2][In case the interlocutory order, judgment, final order, decree, or formal order is in Hindi and is accompanied by an authorised English translation thereof, copies of both Hindi and English version shall be issued and charges for each set of copies shall be double the rate as prescribed for the said orders, judgments and decrees in the above scale of charges.]

[3][Representatives of approved law journals shall be entitled to get copies of judgments and orders 'Approved for Reporting (A.F.R.), on payment of rupees [4][five] per copy of every such judgment or order in accordance with the conditions laid down in Rule 32 of Chapter VIII.

18. Copy of book, etc.—Where the application is for the copy of a book register, map or plan, any extract therefrom, the Section Officer of the Copying Department shall, as soon as it has been received from the Registrar or the Deputy Registrar, as the case may be, cause an estimate to be made of the cost of preparation of such copy and submit it along with the application to the Registrar. After the Registrar has approved the estimate notice thereof shall be affixed on the notice-board of the Copying Office on two consecutive working days requiring the applicant to deposit

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[1] The following note was added by Noti. no. 26/VIII-C-61, dt.29.08.1977 as was published in the UP Gazette, Part II, dt.24.09.1977, now has been omitted by Noti. No. 217/VIII-C-61, dt. 19.04.1980, published in the UP Gazette, Part II, dt. 26.04.1980

"**Note**- the above mentioned scale of charges shall be adhered upto the limit of 2000 words and for every subsequent 300 words or less an extra charge of 25 paise and 50 p. for ordinary and urgent copies respectively, shall be payable in addition to the charges payable upto the said limit."

[2] Added by Not. No. 35/X-e, Dated 24.01.1972

[3] Subst. by Not. No. 16210/VIII-C-145-2, dated 08.12.1952

[4] Subst. by Not. No. 516/xd-188, dated 30.11.1996

the estimated cost within seven days, if the application has been received by post, a copy of the notice shall be sent by unpaid post to the applicant requiring him to deposit the estimated cost within ten days. If within the time aforesaid the estimated cost mentioned in the notice is paid to the Cashier or received by him by money order, he shall enter it in the register of petty items and inform the Section Officer, Copying Department. The Section Officer shall obtain the order of the Deputy Registrar for the purchase of the necessary stamp and the copy shall thereafter be prepared. If the cost is not received by the Cashier within the aforesaid time the application shall be rejected.

19. Rejection of application.—If for any reason the copy applied for cannot be given, the application shall be rejected. The copy [1]**[* * *]** stamps shall be returned to the applicant after taking his signature in the appropriate column of the register of applications and he shall be informed of the reason why the copy cannot be given. If the application is received by post, the information shall be given to the applicant [2]**[* * *]** and stamps returned to him by unpaid post. If, however, any postage stamps have been filed with the application under Rule 4 they may be used for the purpose. A note shall be made in the remarks column of the register of applications accordingly.

20. Destruction of copy [3][* * *] stamps which cannot be returned.—If any copy [4]**[* * *]** stamps are to be returned to the applicant personally under the next preceding Rule and the applicant does not appear within three days of the date on which his application is rejected, they may be sent to him by post provided that the necessary postage stamps have been deposited on his behalf for this purpose. Any copy folios and stamps which cannot be returned to the applicant or are received back as undelivered from the post office, shall be destroyed under the orders of the Deputy Registrar after the lapse of a period of three months, the fact being noted in the remarks column of the register.

21. Register of applications.—A register of applications for copies

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[1] Deleted "copy folios and" vide Noti. No. 157/UHC/Admin-A, 2008 dated 31.07.2008

[2] Deleted "copy folios and" vide Noti. No. 157/UHC/Admin-A, 2008 dated 31.07.2008

[3] Deleted "copy folios and" vide Noti. No. 157/UHC/Admin-A, 2008 dated 31.07.2008

[4] Deleted "copy folios and" vide Noti. No. 157/UHC/Admin-A, 2008 dated 31.07.2008

shall be maintained by the Section Officer of the Copying Department in the form given below, separate registers being used for ordinary and urgent copies :

(1) Serial number

(2) Date of application

(3) Name of applicant

(4) Description of paper of which copy is applied for

(5) Description of the case.

(6) Fee paid.

(7) Date of receipt of record.

(8) Date of return of record.

(9) Date on which notice that copy is ready, is pasted on the notice board.

(10) Date on which copy is delivered or sent by post.

(11) Signature of assistant delivering copy or dispatching it by post.

(12) Signature of recipient.

(13) Remarks.

22. Application to be dealt with in serial order.—All applications for copy shall be dealt with according to their numbers in the order of the date of presentation, urgent applications being given priority over ordinary ones.

Any departure from this Rule shall be reported immediately to the Deputy Registrar with reasons for such departure and his orders shall be complied with.

23. Requisition for record.—As soon as an application for copy has been received by the Section Officer of the Copying Department a requisition for the document of which a copy is required or for the record in which it is contained shall be forwarded to the proper official and such official shall make over such document or record to the Copying Office without delay.

If there be any delay in complying with such requisition or if it cannot be complied with, the reason shall be communicated at once to the Copy-

ing Office.

24. Reference to Deputy Registrar.—If any difficulty arises in the preparation or issue of a copy the matter shall be referred to the Deputy Registrar for orders.

25. Notice of defective applications.—If an application for copy does not contain sufficient information to enable the record to be traced or if that fee paid is insufficient or the application is otherwise defective, a notice to the effect shall be affixed on the notice-board.

If the application has been received by post the information shall be communicated to the applicant by unpaid post.

If the defect is not removed or the deficiency not paid within one week, the application shall be rejected.

26. Delivery of copy to applicants.—After a copy has been prepared it shall be examined and certified to be a true copy by the Section Officer of the Copying Department and each page of the copy shall be stamped with the seal of the Court.

At the end of the day the Section Officer shall cause all copies which have been duly certified and sealed to be delivered to the applicant [1][or their nominees in writing] or where the requisite postage stamps have been deposited by the applicants for the purpose to be sent to them by post making necessary entries in the appropriate column of the register. [2][The nominee in writing may be a practicing advocate or a registered clerk of the advocate].

27. Notice of ready copies.—Copies not delivered to the applicants Inserted by [3][or their nominee in writing] on the day on which they are ready or on the following day shall be entered in a list which shall be affixed forthwith to the notice-board.

28. Destruction of copies which cannot be delivered.—Where a copy remains undelivered to the applicant [4][or his nominee in writing] for a period of three months after the date of affixation of the notice on the no-

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[1] Inserted by Not. No. 132/VIII-C-61, dated 10.04.1972

[2] Inserted by ibid

[3] Inserted by ibid

[4] Inserted by ibid

tice-board under the next preceding Rule, it shall be destroyed under orders of the Deputy Registrar, an entry to that effect being made in the remarks column of the register of applications.

Where a copy sent to the applicant by post under Rule 26 is received back as undelivered, it shall similarly be destroyed if it is not taken delivery of by the applicant within a period of three months from the date on which it was received back by the office.

29. Delivery of urgent copies.—In the case of urgent application copies shall be delivered to the applicant [1][or his nominee in writing] not later than the end of the working day next after the day on which the application was presented, provided that the application is in order and the requisite fee has been duly paid.

30. Issue of copies of certain orders the same day.—Copies of all orders passed by the court granting bail or staying proceedings or execution or granting injunction or when so ordered by the court shall on application and on payment of [2][three times of the prescribed charged for ordinary applications] be given to the Advocate for the parties on the very day on which such orders are passed and, if this be not possible, on the following day.

31. Sending copies, [3][* * *] etc., by post.—(1) Where a communication may under this Chapter be sent to the applicant by unpaid post it may be sent to him by prepaid post provided the applicant has previously deposited the necessary postage stamps for the purpose. If the postage stamps so deposited are sufficient to cover registration charges also such communication may be sent to him by prepaid registered post.

(2) Where the postage stamps deposited by the applicant are insufficient for the purpose indicated by him the copies, [4][* * *] and stamps or communication, as the case may be, may be sent to him in an insufficiently stamped cover.

(3) Where the applicant desires that any copies, [5][* * *]and stamps or communication be sent to him under registered cover, but the postage

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[1] Inserted by Not. No. 132/VIII-C-61, dated 10.04.1972

[2] Inserted by Not. No. 217/VIII-V-61, dated 19.04.1980

[3] Deleted “folio” vide Noti. No. 157/UHC/Admn. -A, 2008 dated July.31,2008.
[4] Deleted “folio” vide Noti. No. 157/UHC/Admn. -A, 2008 dated July.31,2008.
[5] Deleted “folio” vide Noti. No. 157/UHC/Admn. -A, 2008 dated July.31,2008.

stamps deposited by him are insufficient to cover registration charges such copies, folios and stamps or communication, as the case may be, may be sent to him by ordinary post.

(4) Where the postage stamps deposited by the applicant are in excess of requirement the unused postage stamps shall be returned to him in the same cover.

(5) Where any postage stamps cannot be returned to the sender they may be used as service stamp after being entered in the stock book of service postage stamps.

(6) Where an unpaid or insufficiently paid cover is received back undelivered from the post office the amount charged by the post office shall be debited under head "contingencies".

[1]**32. Special Provision for Lucknow Bench.—**At Lucknow Bench, however, the functions of Deputy Registrar under this chapter shall be performed by the Assistant Registrar and in his absence by the Joint Registrar of that Bench.

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[1] Added by Not. No. 209/VIII-C-19, dated 25.04.1974

CHAPTER XLI

Arrangement, Preservation and Destruction of Records

[1]**[1. Division of record into parts—**Record in all cases, shall be maintained into two parts to be called Part A and Part B.

2. General Index—(i). In every case a General Index in the following Proforma shall be maintained and every paper of the case as soon as it comes on record shall be entered in the General Index by the concerned official handling the record at that time

Sr. No.	Part to which it belong	Short description of the paper	No. of pages	Stamps, if any	Date of filing	Remark

(ii) In case any document is returned to a party a note to that effect shall be made by red ink in the general index also apart from the order sheet.

Rule 3. Contents of Part A and Part B~—Part 'A' of the record shall contain the following documents:

(i) General Index;

(ii) Order Sheet;

(iii) Judgment and orders of the court;

(iv) All pleadings, applications, affidavits or documents filed by the parties;

(v) Issues, if any;

(vi) Deposition of witnesses, if any;

(vii) Compromise;

(viii) Undertaking;

(ix) Security;

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[1]Amended by Notification No, 154/UHC/Admin-A, dated 26th August, 2009.

(x) Any other document which the court direct;

Rule 4—The Part 'B' shall contain the following documents:

(i) Vakalatnama;

(ii) Memo of appearance;

(iii)All papers including service reports and affidavits if any, relating to service upon parties;

[1]["Provided that in case, notice is unserved and returned to the Registry, the envelope and the notice shall be kept on record, but, the copy of the petition, appeal, etc. shall be returned to the parties concerned so that in case of reissuance of the notice, the same may be enclosed alongwith the fresh notice.]"

(iv) All applications including interlocutory applications shall also be shifted in this part after their disposal;

(v) The originally filed pleadings such as writ petition/memorandum of appeal, when these pleadings have undergone amendment and amended pleadings already stand filed;

(vi) Any other paper/document which is not to be kept in Part 'A' shall be kept in Part 'B';

Rule 5. Records to be preserved permanently:- Part A in all cases shall be preserved permanently.

Rule 6. Records to be preserved for 12 years:- Part B in all cases shall be preserved for 12 years.

Rule 7. Computation of period for the preservation of Record.— The period prescribed in Rules 5 and 6 for the preservation of records shall be computed from the date of the final decision of the case and in case of appeal to the Supreme Court, from the date of the final decision of the Supreme Court.

Rule 8. Register of cases of which the records are to be destroyed to be maintained in the Record Room.—A register in the form given below shall be maintained showing the number and years of appeals and other cases received in the Record Room of which the records are to be destroyed. The entries for each year shall· be signed by the Record Keeper

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[1]As inserted by Not. No. 201/UHC/Admin.A/2022, dated July 28, 2022

and the Deputy Registrar.

Sr. No. of the cases	District	Date of receipt in the record room	Date of decision of Supreme Court/Hih Court	Date when due for de-struchtion	Dates when ac-tually de-stroyed	Name and sig-nature who de-stroyed file

Rule 9. Destruction of records to be carried out in the Winter Vacation—(i) Notice shall be publicly given on the CourtNotice Board that parties leave documents and papers with the records of case at their own risk and that such papers are liable to be destroyed in accordance with the Rules for the destruction of records.

(ii) The destruction of records shall be carried out in the vacation each year. The records to be destroyed should, if they cannot be conveniently burnt, be torn up into very small pieces and made quite incapable of use again as documents. The fragments should be sold to the highest bidder, and the proceeds credited to the Government.

Rule10. (i) [1][****]

(ii) Anything already done or purported to have been done under these Rules contained in Chapter XLI of the Rules of the Court, 1952 as were applicable to this Court shall not be invalid or ultra vires.]

[1] The rules under Chapter XLI notified vide Notification No. 162/UHC/2001dated 3/6 October,2001 are hereby repealed.

[1][CHAPTER-XLI-A

DIGITAL PRESERVATION AND DESTRUCTION OF CIVIL AND CRIMINAL RECORDS

1. Presentation of matters at the filing centre - Notwithstanding anything to the contrary contained in these Rules –

(i) A main case, an interlocutory application or any other document filed therewith may be presented in person at the presentation centre of the High Court during the working hours in soft copy in Portable Document File (PDF) format by any party or his recognized agent or his advocate.

(ii) On presentation, such person shall be given the date for appearance on next working day after removal of defects, if any.

(iii) In case the Petition, Counter, appeal, application or document including subsequent documents is filed in hard copy, the same shall be scanned and tagged with relevant case/file.

(iv) The scanned images of the judicial records after digital signature of Supervising Officer(s) shall be kept in such format and in such medium as may, from time to time, be specified by the Chief Justice. Such files shall be regularly updated in electronic format in the server.

2. Retention and security of Record- Notwithstanding any period of preservation prescribed in these Rules, any judicial records book or paper, may be destroyed after being retained and secured in electronic form in accordance with –

(i) Section 7 of the Information Technology Act, 2000.

(ii) After certification as required by sub-section (4) of section 65-B of the Indian Evidence Act, 1872 (Appendix-A).

3. Record to be digitized and preserved permanently in the uneditable digitized format- The Supervising Officer shall then as soon as

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[1] Inserted by Noti. No. 189/UHC/Admin.A (I.T.)/2024 Dated: May 01, 2024

possible give a certificate under his physical and digital signatures, that the required entire judicial record of the given case is available in the un-editable digitized format.

4. Scanned record be digitally signed- The scanned images of the judicial records after digital signature of Supervising Officer(s) shall be kept in such format and in such medium as may, from time to time, be specified by the Chief Justice.

5. Elimination of Records-

(i) Record of every disposed of Anticipatory Bail Application U/s. 438 Cr.P.C. shall be destroyed after expiry of one year from the date of final order.

(ii) Record of every disposed of Bail Application U/s. 439 Cr.P.C. shall be destroyed after expiry of three years from the date of final order.

(iii) All other records including paper books shall be destroyed after expiry of five years from the date of final order.

(iv) No records referred in this Rule shall be destroyed unless it is digitized and verified. In the event, if any part of the file is so fragile that it cannot be digitized; such a file will be preserved permanently in a Fragile Record Section.

Provided that original documents of historical, sociological, scientific and artistic value, as in the opinion of the Chief Justice, shall be permanently preserved.

6. Period of computation for elimination- The time limit mentioned in the preceding rule shall be calculated from the date of the final decree or order, which, in cases of appeal to the Supreme Court will be that of the decree or order of Supreme Court respectively.

7. Notice to Parties- Before destruction, the documents listed out in the First Schedule in The Information Technology Act, 2000 as amended from time to time have to be segregated and preserved in a sealed cover with case number signed by the Registrar (Judicial) or any other person authorized on his behalf in a separate storage space. Simultaneously, all the original documents after digitization shall be returned to the parties after giving them three months notice to receive the documents and in case the parties do not collect the documents within a period of three months,

those documents shall be destroyed in accordance above rule under the general superintendence of the Registrar (Judicial), by the Supervising Officer(s) as may be appointed by the Chief Justice for that purpose.

8. Digitization of record- The conversion of judicial records, books, or papers, in electronic form, shall be carried out from time to time, before their destruction, in accordance with Rule 2, as may be necessary, as above, shall be carried in the following manner, namely:-

(i) Each case record shall be applied with a barcode sticker so that the data that will be captured from the record will be readable using the barcode reader.

Explanation: A barcode is a way to encode information into a visual pattern which can be read by a Bar Code scanner or any other appropriate device. The prescribed meta-data shall be embedded in the Bar Code in such a way that such data can be retrieved in a readable format by using a Bar Code scanner or other appropriate device.

(ii) Each scanned case record shall be indexed in accordance with the indexing parameters of the physical case record in such way that the prescribed software accurately identifies every indexed document available in the scanned record.

(iii) Each scanned document shall be converted to PDF/A (Portable Document Format/ Archiving) format in OCR (Optical Character Recognition) mode. Each PDF file shall be segregated according to indexing parameter (order sheet page, annexure page, judgment page etc.) as indicated in point (ii) above.

(iv) Every scanned case record, whether Civil or Criminal shall be provided with but not limited to the following meta-data, namely:-

a) Case Number

b) Case Year

c) Case Type

d) Barcode Number

e) Name of Petitioner(s)

f) Name of Petitioner's Advocate

g) Name of Respondent(s)

h) Name of Respondent's Advocate

i) Name of the Judge

j) District Name

k) Date of Disposal

l) Date of Scanning

m) Date of Verification

n) Name of Verifier

(v) The existence of any of the following documents as specified in Rule 7, shall be entered as Additional Meta Data so that the digitized records containing the said documents can be easily identified for taking steps to return the said documents in the physical form to the concerned parties/advocates –

a) A negotiable instrument (other than a cheque) as defined in section 13 of the Negotiable Instruments Act, 1881 (26 of 1881).

b) A power-of-attorney as defined in section 1A of the Powers-of- Attorney Act, 1882 (7 of 1882).

c) A trust as defined in section 3 of the Indian Trust Act, 1882 (2 of 1882).

d) A will as defined in clause (h) of section 2 of the Indian Succession Act, 1925 (39 of 1925), including any other testamentary disposition by whatever name called.

e) Any contract for the sale or conveyance of immovable property or any interest in such property.

(vi) The agency in charge of scanning the case records shall ensure entry of the above meta-data in the software application used for scanning and digitizing case records. It shall also be the duty of such agency to provide sufficient safeguards to prevent alteration of the meta-data once it is verified and the case record is uploaded in the DMS (Data Management System) server.

(vii) The Court shall use the DMS with a secure user ID provided by the scanning team to manage the complete electronic record life cycle such as Creation, Distribution, Usage, Maintenance and Destruction of electronic records. These IDs will be permission specific meaning that basing on the privilege assigned to these IDs, a user can view, download or print but cannot make any changes in the uploaded feed for the sake of the security

of the scanned records available in the server.

(viii) The agency entrusted with the scanning work shall in consultation with the Court prepare necessary facility for rectification of erroneous data in the server.

(ix) The agency entrusted with the work of scanning and digitization shall use necessary technology to ensure that the scanned and digitized documents stored in the server shall remain accessible, readable and printable without affecting the information originally generated, sent and received for posterity. The digitized documents shall be further used for audit purpose as per the Section-7A of the Information Technology (Amendment) Act, 2008.

(x) The database containing the digitized records of the Court shall only be accessible in the local area network (LAN) of the Court. It shall be ensured that no portion of the database or the server containing the digitized records of the Court is accessible through internet or to any person in any manner beyond the permission granted in this regard.

(xi) While handing over records for digitization it will be ensured that duplicate copies of any part thereof are removed to avoid needless scanning.

9. Digitization of LCR- In respect of the Lower Court Records (LCR), the following procedure mentioned as below is to be adopted, namely:

(i) No original LCR whether in a disposed of or a pending case shall be retained in the High Court. After scanning and verification in the manner provided hereinbefore the original LCR shall be forthwith returned to the Court concerned. Whenever any order requisitioning the LCR is passed hereafter, the concerned Court will only send a scanned and verified copy of such LCR (duly signed digitally, using digital/ electronic signature, by the concerned authority) to the High Court. If, for some reason, the Court concerned is unable to scan and verify the softcopy of such LCR, then the hardcopy of such LCR shall on its receipt in the High Court shall be scanned and verified in the High Court and thereafter be returned to the Court concerned.

(ii) In the event, if the Court concerned while hearing a pending matter decides to peruse the original hardcopy of the LCR, then upon an order passed by such Court, the original LCR shall be called for.

(iii) In a pending matter when the Court so desires, a print out of the softcopy of the LCR shall be placed before the Court.

10. Elimination of record in Division Bench Cases- Notwithstanding anything contained in the foregoing rules, in Division Bench cases second copy of brief and in all types of cases, all Miscellaneous cases except relating to amendment of pleadings, intervention, addition of party, taking documents or subsequent events by way of additional evidence, substitution and setting aside abatement, if any, shall be destroyed after disposal of the case.

11. Mode of Destruction- The destruction of all papers shall be carried into effect by the process of cutting with use of shredder or by any other manner as the Chief Justice may direct. Such destruction shall be made in presence of the Superintendent in-charge of the Record Room of the Court under the supervision of the concerned Deputy Registrar (Judicial) or Section Officer of the Record Room.

12. The Chief Justice may, from time to time, issue directions for effective implementation of these Rules.

Appendix-A

Verification of Digitized Records

The Designated/Supervising Officer(s) of the Court should verify each digitized record by comparing it against the original document as per following parameters (as applicable) and store the following information in a database.

The information forms the basis for issuing the certificate by the Designated Officer for certifying the admissibility of digitized record in the Court as per the Section 65B of Indian Evidence Act. The rank and designation of the officers in charge of the particular digitization processes should be identified for uniform implementation.

S.No.	Parameters
1.	Record number
2.	Document orientation (Portrait or landscape)
3.	Number of pages
4.	Original or photocopy

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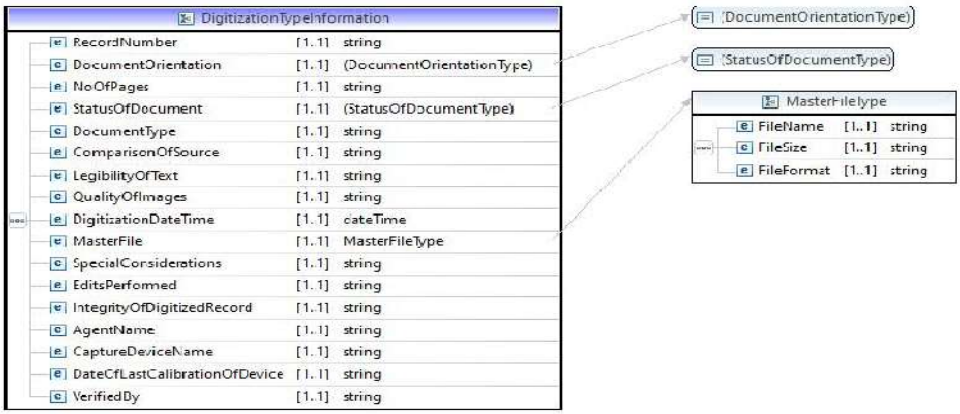
5.	Comparison of source and digitized record
6.	Legibility of text in scanned document
7.	Quality of images
8.	Date and time of Digitization
9.	Master file name, size and format
10.	Special Consideration
11.	Edits Performed
12.	Integrity of Final digitized record
13.	The name of the agent associated with the digitization process *(e.g. name of the outsourced bureau or name of the in-house operator)*
14.	Capture device Name (Hardware/Software)
15.	Date of Last Calibration of Device
16.	Verified by



(The XML schema for DVI)

These amendments shall come into force with immediate effect.

CHAPTER-XLI-B

DIGITIZATION OF REGISTERS, ADMINISTRATIVE RECORDS, OTHER PAPERS AND PUBLICATIONS

1. Digitization of Administrative Record- All the administrative records/files and Registers are to be digitized and preserved permanently in the digitized form by the Supervising Officer(s) as may be appointed by the Chief Justice for that purpose and under the general superintendence of the Registrar (Computer) or Officer heading the Computer and Information Technology Section.

2. Record to be digitally signed-The official of the concerned section digitizing the register shall certify that the entire Administrative Records/Files and Registers have been digitized. The Supervising Officer shall then as soon as possible give a certificate under his physical and digital signatures that the entire Administrative Records/Files and Registers are available in the digitized form retained and secured in electronic form in accordance with –

a) Section 7 of the Information Technology Act, 2000 and Page 7 of 9

b) After certification as required by sub-section (4) of section 65-B of the Indian Evidence Act, 1872 (Appendix-A).

3. Elimination of Registers- The registers mentioned in Rules of Court, 1952 as applicable to High Court of Uttarakhand, which have been duly digitized and certified by the Supervising Officer, shall be eliminated.

Provided that the original documents pertaining to title, educational achievements, service record and creating personal rights shall not be eliminated for a period of 12 (twelve) years, from the date of digitization or the date of final disposal of the lis, if any, from the highest Court, whichever is later.

Provided further that original documents of historical, sociological, scientific and artistic value, as in the opinion of the Chief Justice, shall be permanently preserved.

Provided further that administrative record pertaining to the previous 5 financial/calendar years shall not be eliminated.

4. Progressive elimination of records- The destruction shall be progres-

sively carried out from time to time in accordance with the provisions of Rules of Court, 1952 as applicable to High Court of Uttarakhand under the general superintendence of the Registrar (Judicial) and Registrar (Computer) or Officer heading the Computer and Information Technology Section.

5. Elimination of other records- Notwithstanding anything contained in these Rules, all documents, other than those required to be preserved in perpetuity in accordance with the Rules of Court, 1952 as applicable to High Court of Uttarakhand, may be eliminated after being retained and secured in electronic form and after certification as required by sub-section (4) of Section 65-B of the Indian Evidence Act, 1872 as mentioned above.

6. Digitization of miscellaneous record- All the other papers as per directions of the Chief Justice shall be digitized and preserved permanently in the digitized form under the general superintendence of the Registrar (Computer) or Officer heading the Computer and Information Technology Section by the Supervising Officer(s) as may be appointed by the Chief Justice for that purpose in accordance with foregoing rules.

7. The Chief Justice may, from time to time, issue directions for effective implementation of these Rules.

Appendix-A

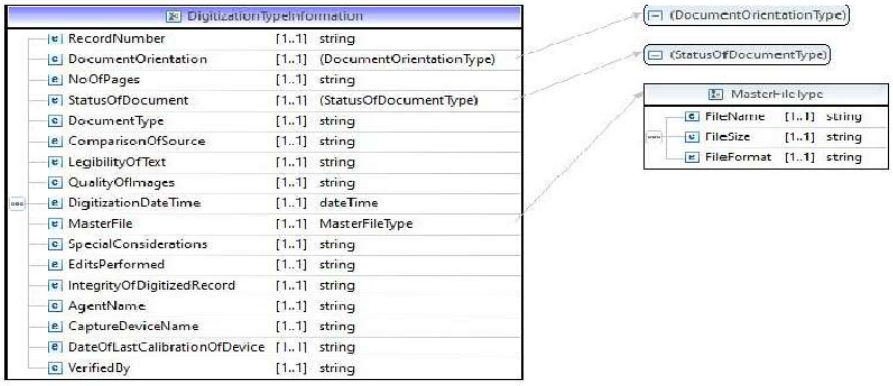
Verification of Digitized Records

The Designated/Supervising officer(s) of the Court should verify each digitized record by comparing it against the original document as per following parameters (as applicable) and store the following information in a database.

The information forms the basis for issuing the certificate by the Designated Officer for certifying the admissibility of digitized record in the Court as per the Section 65B of Indian Evidence Act. The rank and designation of the officers in charge of the particular digitization processes should be identified for uniform implementation.

S. No.	Parameters
1.	Record number
2.	Document orientation (Portrait or landscape)
3.	Number of pages
4.	Original or photocopy
5.	Comparison of source and digitized record
6.	Legibility of text in scanned document
7.	Quality of images

8.	Date and time of Digitization
9.	Master File name, Size and Format
10.	Special Considerations
11.	Edits Performed
12.	Integrity of Final Digitized record
13.	The name of the agent associated with the digitization process (e.g. name of the outsourced bureau or name of the in-house operator)
14.	Capture Device Name (Hardware/Software)
15.	Date of Last Calibration of Device
16.	Verified by



(The XML schema for DVI)

These amendments shall come into force with immediate effect.]