

CHAPTER 10

Forfeited and Unclaimed Property and Malkhanas

Part

A

ITEMS OF ACCOUNT CONNECTED WITH LAW AND JUSTICE, SALES OF UNCLAIMED PROPERTY, JUDICIAL FORFEITURES & C.

(i) General—The annexed rules, framed at the instance and with the approval of the State Government, aim at the prevention of fraud so far as items of account connected with law and justice are concerned.

(ii) Subjects dealt with—They deal with—

(1) Sale-proceeds of unclaimed and escheated property; and

(2) Judicial forfeitures, including—

(a) the proceeds of property of absconding offenders and witnesses, sold under the provisions of Section 88 of the Code of Criminal Procedure;

(b) forfeitures of earnest money deposited at sales of immovable property in execution of decrees; and

(c) sums realised under forfeited security and bail-bonds.

(iii) Officer-in-charge—Heads of offices will take particular note of the instructions contained in Rules 1 to 4 inclusive, and will not fail to appoint an officer of the headquarters staff to supervise the Nazirs' Store-room and Miscellaneous Register F as required by Rule 4.

(iv) Directions as to preparation of returns—The principles underlying Rules 6 and 7 for the preparation of the returns thereby required, are those which regulate the monthly Fine Statements. As Subordinate Judges are under the operation of Rule 6 required to furnish a return of the forfeiture of earnest money deposited at sales of immovable property in execution of decrees, District Judges should take steps to instruct Subordinate Judges in the rules, regulating the preparation and submission of fine statements, and direct strict compliance therewith, *mutatis mutandis*, for the preparation and submission of the statement prescribed in Rule 6. It will not escape notice that the statements required by Rules 6 and 7 must be separate and distinct from each other, and from the statement of fines. The caution to Record-keepers at the end of Rule 6 should be brought prominently to the notice of those officials.

(v) Statements to be submitted monthly—The statements should be submitted monthly to the Accountant-General, as soon as possible after the close of the month to which they refer.

(vi) Items of uncertain revenue, stamps, etc., require special attention—The attention of Deputy Commissioners is specially invited to the following remarks, regarding items of uncertain revenue, recorded by the Accountant-General:—

“All items of uncertain revenue for which there is no fixed demand, or for which there are no vouchers, as in the case of stamps, are liable to be misappropriated in the first instance by the establishment which collects them, the statements of receipts being falsified in its preparation and made to agree with the sum actually paid into the Treasury. The system of check now proposed will reveal no fraud designed and perpetrated at this stage; and with the knowledge before them, that independent statements of realisations by the collecting officers, and of Treasury credits, exist for comparison, the perpetrators of such frauds would be careful to see that the statement of receipts corresponds with the sums actually paid in by them.”

(vii) Portions of bail and security bonds forfeited—Demands on account of amounts forfeited on bail and security bonds should be entered in Criminal Register No. XIV, and realizations of such demands in Fine Register No. XV.

(viii) Nazir's strong box not to contain property exceeding Rs. 1,000. Nazir's store-room and Police guard—Every Nazir shall be provided with a strong box and store-room for the custody of all property made over to him, including bullion or jewels of less value than one thousand rupees. The bullion or jewels shall be kept in the strong box which shall be deposited in the Treasury under single lock, while the other property shall be kept in the store-room which shall be guarded by the police with Government property. It shall be the duty of the officer-in-charge of the store-room to see that the value of valuable property, such as, bullion or jewels lying with the Nazir at any time does not exceed Rs. 1,000. If at any time this limit is exceeded the property shall be sent to the Treasury Officer for safe custody.

(ix) Disposal of property attached and subsequently found to be unclaimed—If there is any property which has been attached by a Court in execution of decree and is subsequently found to be unclaimed and incapable of being returned, it should be disposed of under Sections 25 to 27 of the Police Act.

Rules

1. Entry of property made over to Nazir in Register K and its safe custody—All property made over to the Nazir under the rules contained in Chapter 11-E of Volume III of the Rules and Orders, or otherwise under the orders of a Judicial Officer acting as such, after each article has been entered in Miscellaneous Register F, be kept in such place as may be appointed by the head of the office concerned in consultation with the Police authorities.

2. Articles forfeited and made over to the Nazir to be entered in one register, etc., and directions *re.* the entries to be made in this register—One register in 2 volumes shall be maintained in each office for both the Civil and Criminal Departments, the first volume for articles which have been forfeited and the second for articles which have been made over the Nazir pending the decision of a case. If it is subsequently decided that an article entered in the 2nd volume should be forfeited, it should be entered in the 1st volume. Columns 1 to 5 of this register shall be filled up on receipt of the property. When the property is received from the Police the number given to the deposit in column 1 shall be entered by the Nazir in the Police register in which he acknowledges the receipt of the property. When the property is received otherwise than through the Police, the number given to the deposit in column 1 shall be noted by the Nazir on the record of the proceedings ordering the property to be made over to him. To ensure due compliance with these instructions, the Police Registers should occasionally be compared with the Nazir's registers and Record-keepers should be instructed not to receive into their record-rooms any record in which property appears to have been made over to the Nazir, otherwise than through the Police, unless the acknowledgement of the Nazir and the number given to the deposit in his register have been duly entered on the record.

3. Directions with regard to the above-mentioned register—Columns 6 to 8 of the register will be filled up when the property is disposed of. If the property is disposed of by delivery to a private person, the delivery shall always take place in the presence of the officer ordering the delivery and be attested by his initials in column 6. In cases in which the sale-proceeds of property or the property itself, where it consists of cash, are paid into the Treasury, the date of payment and number of the Treasury receipt shall be entered in column 8, in addition to the Treasurer's signature; and when items pertaining to several cases are acknowledged in one receipt, the register number of the different cases and the amount paid in each shall be endorsed on the Treasury receipt.

4. Monthly statement by Nazir and its verification by the officer-in-charge. Six-monthly inspection of store-room and monthly inspection of Register K—The Nazir's store-room and Miscellaneous Register F shall always be placed under the special supervision of an officer of the headquarters staff, who shall examine and countersign the register at least once a month, and inspect the contents of the store-room at least once in 6 months. The District Nazir shall be responsible under the officer-in-charge for the disposal of such property and he will prepare the monthly statement of sale-proceeds of unclaimed and escheated property credited into the Treasury for submission to the Accountant-General. The office copy of the statement will be used for the purposes of checking the Treasury credits and a reference to the number of the entry in Miscellaneous Register F should therefore be made in the last column of the office copy. The officer-in-charge should, when signing the monthly statement after verification by the Treasury, compare the entries in the office copy with those in the Miscellaneous Register F and initial in columns 6 of the Register all entries of sale of unclaimed property brought to account in the monthly statement and also all orders of competent authority to destroy such property. Papers relating to orders authorizing destruction or those relating to sale fetching less than Re. 1 should be kept

by the Nazir in quarterly files till the accounts have the audited, when those with regard to which no objection has been raised may be destroyed and the others kept pending till the next audit. The rest should be arranged in monthly files and sent to the Record-room.

Note 1—The officer-in-charge at the time of the six-monthly inspection, required by this rule, should report to the District Magistrate the total value of the property lying with the Nazir and the District Magistrate should satisfy himself that proper steps have been taken to return the articles of private property to their owners and to dispose of unclaimed property by auction.

Note 2—To safeguard against any loss of property, the personal control of the Nazarat Officer over the store-room is imperative and should be exercised by keeping the store-room, like the district armoury, under double lock, one key of which should remain with the District Nazir and the other with the Nazarat Officer.

5. Judicial forfeitures—Duty of Courts to send monthly statements and verify Nazir’s District statement—The papers relating to the disposal of property forfeited in judicial cases are included in the proceedings in which the order of forfeiture is given. Each Court shall send to the Nazir a monthly statement of such realizations. From these statements the Nazir will compile the District statement, but the comparison of entries in the office copy with those in Miscellaneous Register F and the initialling of entries in column 6 of Miscellaneous Register F shall be the duty of the Court dealing with the proceedings for forfeiture.

6. Forfeiture of earnest money in auction sales in execution—Duty of Court to submit statement. Duty of record-keeper on receipt of execution record—In the event of an order of forfeiture of the earnest money mentioned in Order XXI, Rule 84, Civil Procedure Code, becoming necessary under the operation of Order XXI, Rule 85, the presiding officer of the Court ordering the sale and subsequent forfeiture shall prepare, for submission to the Accountant-General, according to the present procedure for the preparation and submission of the monthly statement of realization of fine by each Court, at the beginning of the month next following that in which the forfeiture occurred, a statement of the sum credited to Government under the provisions of Order XXI, Rule 86; and such presiding officer will be responsible that the legitimate “expenses of the sale” only have been deducted from the amount deposited. The Treasury receipt for the amount actually credited to Government shall remain in the record of proceedings, and Record-keepers shall not receive into the record office any record which is not accompanied by such receipt.

7. Statement of sums realized under forfeited security and bail bonds—Sum realized under forfeited security and bail bonds shall be entered in the Register of Fine Realizations (Criminal Register No. XV) maintained by the District Fine Moharrir for all Courts in the District. Each Court shall, at the beginning of every month, prepare, for submission to the Accountant-General, according to the present procedure for the preparation and submission of the monthly statement of realizations of fines by each Court a list of all sums so realized by it during the month preceding.

Note—The statement mentioned in Rule 6 and the list in Rule 7 will be separate from each other and from the monthly statement of fines realised, sent to the Accountant-General in accordance with paragraph 20(i) of Chapter 11 of this volume.

CUSTODY AND DISPOSAL OF THE PROPERTY ATTACHED UNDER THE CRIMINAL PROCEDURE CODE

In order that all property which is at the disposal of the Government under Section 88 or attached under Sections 386 or 332 or any other section of the Criminal Procedure Code may be brought to account and the responsibility of the Government may be properly discharged, the following rules have been made under Article 227 of the Constitution of India, by the High Court with the approval of the State Government:—

Rules

1. Arrangements for the safe custody, preservation and proper management of the property attached—Whenever property is attached under the order of a Criminal Court, the Court shall make suitable arrangement for its safe custody, preservation and proper management.

2. Registers to be maintained—The Court shall maintained the following registers in which all property attached shall be entered:—

(i) Miscellaneous Register K/l.

(ii) Index Register.

The forms of these register are appended to these rules.

In the Index Register the names of the persons whose property is attached should be entered in chronological order and an alphabetical Index giving reference to the pages of the register should be maintained in the beginning.

3. Time for the disposal of the attached property by sale—The attached property of a proclaimed offender other than that ordered by the Court immediately to be sold under the provisions of Section 88(5), (Section 83 of the New Code) Criminal Procedure Code, shall not be sold until the expiration of six months from the date of attachment and until all claims preferred or objections made under Section 88 have been disposed of.

4. Time for the disposal of the attached property by sale—If the proclaimed offender does not appear before the Court within six months from the date of attachment and after all the objections, if any, made under Section 88 (Section 83 of the New Code) have been disposed of, the Court shall take steps to sell the property unless for sufficient reasons it deems fit to postpone the sale.

5. Directions as to the delivery of property released—Whenever the Court directs the release of the property attached in favour of any person, in whole or in part, it shall be delivered to him or his authorized agent in the presence of the Court or by an officer of the Court in the presence of respectable witnesses.

6. Deposit or sale-proceeds of income of property in Treasury—The price realized from sale of the property attached or its income shall be forthwith deposited in Government Treasury under the head “XXI—Administration of Justice”.

7. Refund of sale-proceeds income—Whenever the price or income of the property is ordered to be delivered to a person, it shall be paid to him by means of a refund voucher.

INDEX REGISTER

Date of attachment	Name and address of the person whose property has been attached	Particulars of the case	Reference to Miscellaneous Register K/1	Date of release	Remarks

MISCELLANEOUS REGISTER K/1 OF THE MOVABLE AND IMMOVABLE PROPERTY

Serial No.	No. in Index Register	Name and address of the person whose property has been attached	Particulars of the case and date of attachment	Details of property attached and marks of identification	Estimated value and income	Arrangement for custody and management	How disposed of and when	Amount realized	Signature of person to whom property is delivered	Remarks
1	2	3	4	5	6	7	8	9	10	11

Notes—1. In column 8, if released, give reference to date of order. If sold, mention the agency through which it has been disposed of. State also for what price sold and whether by public auction or private.

2. In column 9 give the number of the Treasury receipt.

3. In column 11 mention the various orders passed by the Court.

The following rules have been framed by the Punjab Government for the guidance of officers dealing with arms, ammunition and military stores deposited in district malkhanas:—

Rules

1. Nazarat Officer—Separate room in Malkhana under double lock to be provided for custody of arms, etc.—A separate room in every district malkhana shall, if possible, be set apart for the deposit of arms, ammunition and military stores. Where such a separate room is used, it shall be kept under double lock, one key being retained by the officer of the headquarters staff responsible for the supervision of the malkhana, who is referred to in these rules as the “Nazarat Officer,” and the other by the “District Nazir”.

2. Responsibility of the Nazarat Officer—The Nazarat Officer shall be generally responsible for the supervision and disposal of arms, ammunition and military stores deposited in the malkhana. He shall compare the arms, ammunition and military stores in stock in the malkhana with the register prescribed by rule 4 once a month, and shall submit a report of this inspection to the District Magistrate by the 10th of each month.

3. Responsibility of the District Nazir—Subject to the control of the Nazarat Officer, the District Nazir, and not any of his assistants, shall be held personally responsible for the proper receipt, safe custody and disposal of all arms, ammunition and military stores.

4. Register of Arms, etc., deposited in malkhana—Particulars of all arms, ammunition or military stores received in the malkhana shall at once be entered in register to be kept for this purpose, in addition to Miscellaneous Register F, in form I appended to these rules. On the receipt of any arms, ammunition or military stores, columns 1 to 13 shall forthwith be filled up, and the register shall then be submitted to the Nazarat Officer who, after satisfying himself as to the accuracy of the entries, shall place his initials in columns 14.

5. Return of arms, etc., deposited in the malkhana—Arms, ammunition and military stores which have been deposited in the malkhana, and have not been forfeited to Government, shall be returned to the persons entitled to possess them in cases in which the deposit was made by a Court, under the orders in writing of that Court and in other cases under the orders in writing of the Nazarat Officer. The return of all arms, ammunition and military stores under this rule shall take place in the presence of a Gazetted Officer, who shall be responsible for seeing that the relevant columns of the register are filled up.

6. Sale of arms, etc., forfeited and not ordered to be destroyed—All arms, ammunition and military stores which have been deposited in the malkhana, and have been forfeited to Government, and have not been ordered by a Court to be destroyed, may be sold under the orders in writing of the District Magistrate to persons entitled to possess them. A specific and distinct order must be passed with respect to the sale of each weapon or of each lot of ammunition or military stores proposed to be sold, and the sale price must be fixed by the District Magistrate unless the sale is to be by auction. In passing orders for the sale of arms, ammunition and military stores, the District Magistrate should remember that arms, ammunition and stores which can be utilized by the police or by any department under Government may be retained and brought into use with the sanction of the State Government, and should refer for orders any case in which it appears that it would be to the advantage of Government that the arms, ammunition or stores should be retained.

7. Magistrate dealing with administration of the Indian Arms Act to be informed of the sale—The officer of the headquarters staff who, under the orders of the District Magistrate, deals in the first instance with questions relating to the administration of the Indian Arms Act, 1878, and of the rules thereunder, shall be informed of the sale of all arms, ammunition and military stores, and shall be furnished with a full description of the articles sold and with information as to the address of the purchaser.

8. Procedure for destruction of arms, ammunition and military stores—All arms, ammunition and military stores which have been ordered by a Court to be destroyed, or for the destruction of which the District Magistrate, after considering the possibility of their disposal under Rule 5, has passed express orders, shall be dealt with as follows :—

(a) All rifled fire-arms and fire-barrels, pistols and revolvers shall be sent to the nearest Ordnance Officer, under proper precautions, to be broken up. The Nazarat Officer shall advise the Ordnance Officer concerned of the despatch of such arms, and shall personally supervise their despatch. He shall also inform the District Magistrate as soon as he has actually despatched them, and shall, in due course, submit the receipt of the Ordnance Officer to the District Magistrate for his information.

(b) All arms, other than those referred to in clause (a) of this rule, ammunition and military stores shall be broken up or destroyed locally in the presence of the Nazarat Officer and the materials (if any) remaining shall be sold.

When the procedure prescribed by this rule has been completed, the relevant columns of the register shall be filled up. It is of great importance that the number of articles awaiting disposal under this rule should not be allowed to become excessive. Articles, the destruction of which has been ordered, should be kept as far as possible separate from the remainder of the arms, ammunition and military stores in the malkhana, and should be despatched to the Arsenal or destroyed locally, as the case may be, at least once a month. A simple register of such articles should be kept in Form II appended to these rules.

9. Register No. 1 to be opened a new every year. Its checking by the Nazarat Officer and the District Magistrate—The register mentioned in Rule 4 shall be an annual register. At the beginning of each year a new register shall be opened on to which all arms, ammunition and military stores lying in the malkhana shall be brought before the 10th of January. The Nazarat Officer shall be personally responsible for seeing that all arms, ammunition and military stores not shown as disposed of in the previous year's register are in the malkhana, and he shall at

once report if there is any deficiency. The District Magistrate shall, during the month of January, check the entries in the register with the arms in the malkhana, and, in order to satisfy himself that the register has been properly prepared, he shall examine a sufficient number of entries in the previous year's register. He shall specially arrange for the disposal of arms liable to sale or destruction if their number is excessive.

FORM
(See Rule 8)

II

Register of Arms, Ammunition and Military Stores, the Distribution of which has been ordered

1	2	3	4	5	6
Serial No.	Reference to the serial number in the register in Form I	Description of article	Date of despatch to Arsenal	Date of destruction	Initials of Nazarat Officer

Part
CIVIL COURTS' MALKHANAS

D

1. Custody and supervision of Malkhanas—There shall be one common store-room at the District Headquarters for all the Civil Courts of a district under the control of the Civil Nazir to be known as the Civil Nazir's malkhana. The malkhana shall be placed under the direct

supervision of the Senior Subordinate Judge (or the Administrative Sub-Judge in the districts where one has been appointed) or any other whom the High Court may, by general or special directions appoint. This officer shall be known as the officer-in-charge for the purpose of these rules.

2. Custody of property with the Civil Nazir—Every Civil Nazir shall be provided with a strong box for the custody of all light property such as jewels, bullion, etc., up to the value of one thousand rupees. This strong box may be placed in the outer room of the Treasury, if it is open, as provided in Chapter 3 of the Punjab Financial Rules and if it is closed, the officer-in-charge should arrange for its safe custody in the Civil Nazir's malkhana, subject to the provision of Rule 8. The Civil Nazir shall be primarily responsible for the safe custody of the malkhana, the strong box, and the keys thereof subject to the general Superintendence of the officer-in-charge. It shall be the duty of the officer-in-charge to see that the aggregate value of property such as jewels, bullion, etc., in custody of the Civil Nazir, does not at any time exceed Rs. 1,000.

3. Custody of property with the Treasury Officer—Where the property consists of bullion, coin, currency notes, valuable securities or jewels, and its value exceeds one thousand rupees, it should, instead of being kept in the custody of the Civil Nazir, be made over to the Treasury Officer for safe custody in the Treasury; coin or currency notes (other than counterfeit coin and notes) will be treated as regular deposits under the rules in Chapter XII of the Punjab Financial Rules; bullion at its estimated value, securities, irrespective of their face value, and jewels will be deposited for safe custody, and an entry made by the Treasury Officer in the special register kept in Form P.F.R. 2 which should be countersigned every month by the District Magistrate, or of the Additional District Magistrate. The orders of the Deputy Commissioner must be obtained before placing bullion or jewellery, etc., for safe custody in the Treasury.

4. Miscellaneous Register F—Columns 1 to 5 of the Miscellaneous Register F shall be filled up by the Civil Nazir on receipt of the property. The number given to the deposit in column No. 1 shall be noted by the Nazir on the record, of the proceedings ordering the property to be made over to him.

5. Record-keeper's responsibility—Record-keepers should be instructed not to receive into their record rooms any record in which property appears to have been made over to the Civil Nazir, unless the Acknowledgement of the Civil Nazir, the number given to the deposit in its register have been duly entered on the record.

6. Disposal of the property—Columns 6 to 8 of the register will be filled up after the disposal of the property. If the property is delivered to a private person, the delivery shall take place in the presence of the Court ordering the delivery or of the officer-in-charge of the malkhana as may be convenient and shall be attested in column 6 by the initials of the officer responsible for the delivery.

7. Duties of the officer-in-charge, Malkhana—The officer-in-charge shall examine and countersign the register at least once a month and inspect the contents of malkhana at least once in six months. He shall at the time of the six-monthly inspection, report to the District Judge the total value of property lying with the Civil Nazir and the efforts made to dispose of the property.

8. Guarding of Malkhana—The Civil Nazir's malkhana shall be guarded by a Chaukidar but if the value of the property is large and the property is not of such a nature that it can be conveniently deposited in the Treasury or kept in the Civil Nazir's strong box, the officer-in-charge may appoint temporary additional guard or guards.

9. Control and supervision of outlying store-rooms—Where there is a store-room attached to the Court of an outlying Civil Court, it shall be under the immediate control and supervision of the Naib-Nazir, who shall be responsible for the safe custody of the contents thereof and the keys, subject to the general Superintendence of the officer-in-charge.

10. Custody of valuable securities, jewels, etc., in outlying Courts—Valuable securities or jewels shall not be kept in outlying store-rooms. Where there is a sub-treasury near the Court, such valuable property shall be treated as subject to the provisions of Rule 3 and be kept in the local sub-treasury, or where there is no such sub-treasury it shall be transferred for safe custody at District Headquarters according to the foregoing rules.

General

11. Custody of perishable property and livestock—Perishable property or livestock shall be retained by the Civil Nazir or Naib-Nazir for custody in a malkhana, but made over to a *Sapurdar*.

Stereo

P.F.R.

2

Register of Bullion, Jewellery and other Valuables Connected with Cases Required to be Taken out Frequently

Date of receipt	Serial No.	From whom received	Description of the case concerned	Description of article	Initials of Treasury Officer on receipt	Signature of recipient with date initials of the Treasury Officer	Initials of Treasury officer on return	Signature of recipient with date initials of Treasury officer	Initials of Treasury Officer on return	Signature of recipient with date initials of Treasury Officer	Initials of Treasury Officer on return	Signature of recipient with date initials of Treasury Officer	Initials of Treasury Officer on return	Signature of recipient with date initials of Treasury Officer	Initials of Treasury Officer on return	Signature of recipient with date initials of Treasury Officer
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17

