

THE PREVENTION OF MONEY-LAUNDERING (THE MANNER OF FORWARDING A COPY OF THE ORDER OF PROVISIONAL ATTACHMENT OF PROPERTY ALONG WITH THE MATERIAL, AND COPY OF THE REASONS ALONG WITH THE MATERIAL IN RESPECT OF SURVEY, TO THE ADJUDICATING AUTHORITY AND ITS PERIOD OF RETENTION) RULES, 2005¹

In exercise of the powers conferred by sub-section (1) read with clause (b) and clause (1) of sub-section (2) of section 73 of the Prevention of Money-laundering Act, 2002 (15 of 2003), the Central Government hereby makes the following rules relating to the manner of forwarding a copy of the order of provisional attachment of property along with the material, and the copy of the reasons along with the material in respect of survey, to the Adjudicating Authority and its period of retention by the Adjudicating Authority, namely:—

1. Short title and commencement.—(1) These rules may be called the Prevention of Money-laundering (the Manner of Forwarding a Copy of the Order of Provisional Attachment of Property along with the Material, and Copy of the Reasons along with the Material in respect of Survey, to the Adjudicating Authority and its Period of Retention) Rules, 2005.

(2) They shall come into force on the date² of their publication in the Official Gazette.

2. Definitions.—(1) In these rules, unless the context otherwise requires,—

- (a) "Act" means the Prevention of Money-laundering Act, 2002 (15 of 2003);
- (b) "authorised officer" means any officer not below the rank of Deputy Director authorised by the Director for the purposes of section 5 of the Act;
- (c) "authority" means an authority notified from among the classes of authorities specified in section 48 of the Act;
- (d) "designated officer" means an officer designated by the Adjudicating Authority for the purpose of sub-rule (1) of rule 4;
- (e) "Form" means forms appended to these rules;
- (f) "material" for the purposes of sub-section (1) of section 5 of the Act means any material in possession of the Director or the authorised officer, as the case may be, on the basis of which he has recorded reasons including—

1. *Vide* G.S.R. 442(E), dated 1st July, 2005, published in the Gazette of India, Extra., Pt. II, Sec. 3(i), dated 1st July, 2005.

2. Came into force on 1-7-2005.

- (i) a report forwarded to a Magistrate under section 173 of the Code of Criminal Procedure, 1973 (2 of 1974) ¹[***]; or
 - ²[(ii) a complaint filed before a Magistrate or a court by a person authorized to investigate the scheduled offence for taking cognizance of such scheduled offence;]
 - (g) "material" for the purposes of sub-section (1) of section 16 of the Act means any material in possession of the authority on the basis of which it has recorded reasons;
 - (h) "place" means a place where an act constituting the commission of the offence of money-laundering is carried on and includes any other place, whether any activity is carried on therein or not, in which the person carrying on such activity states that any of his records or any part of his property relating to such act are or is kept, falling within the limits of the area assigned to an authority or in respect of which an authority has been authorised by such other authority who is assigned the area under clause (i) or clause (ii) of sub-section (1) of section 16 of the Act respectively;
 - (i) "records" include the records maintained in the form of books or stored in a computer or tapes or discs or in any other electronic form or transcribed information of any type whether expressed in ordinary or machine language and such other documents as may be useful for the purposes of these rules;
 - (j) "Schedule" means the Schedule to the Act;
 - (k) "section" means a section of the Act.
- (2) All other words and expressions used and not defined in these rules but defined in the Act shall have the meaning respectively assigned to them in the Act.

3. Manner of forwarding a copy of the order of provisional attachment of property along with the material under sub-section (2) of section 5 of the Act, to the Adjudicating Authority.—(1) The Director or the authorised officer, as the case may be, shall prepare an index of a copy of the order, and the material and sign each page of such index, order and the material and shall also write a letter while forwarding such index, order and the material to the Adjudicating Authority in a sealed envelope.

(2) The Director or the authorised officer, as the case may be, shall place an acknowledgement slip in Form I appended to these rules inside the envelope before sealing it.

(3) The Director or the authorised officer, as the case may be, shall indicate a reference number and date of despatch on the sealed envelope.

(4) The sealed envelope shall be marked "Confidential" and "To be opened by the addressee only", the complete address of the Adjudicating Authority including his name, shall be mentioned on the sealed envelope with official seal.

1. The words "in relation to an offence under paragraph 1 of Part A and Part B of the Schedule" omitted by G.S.R. 18(E), dated 7th January, 2010 (w.e.f. 7-1-2010).

2. Subs. by G.S.R. 18(E), dated 7th January, 2010 for sub-clause (ii) (w.e.f. 7-1-2010). Sub-clause (ii), before substitution, stood as under:

"(ii) a police report or a complaint filed for taking cognizance of an offence by the Special Court constituted under sub-section (1) of section 36 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985) in relation to an offence under paragraph 2 of Part A of the Schedule;"

(5) The Director or the authorised officer, as the case may be, shall place the sealed envelope inside an outer envelope along with an acknowledgement slip in Form III appended to these rules.

(6) The outer envelope shall be sealed and the complete address of the Adjudicating Authority shall be mentioned on the sealed outer envelope.

(7) The Director or the authorised officer, as the case may be, shall maintain registers and other records such as acknowledgement slip register, dak register for the purposes of this rule and shall ensure that necessary entries are made in the register immediately as soon as a copy of the order along with the material are forwarded to the Adjudicating Authority.

4. Manner of forwarding a copy of the reasons along with the material in respect of survey under sub-section (2) of section 16 of the Act, to the Adjudicating Authority.—(1) The authority shall prepare an index of a copy of the reasons and the material in respect of survey and sign each page of such index, reasons and the material and shall also write a letter while forwarding such index, reasons and the material to the Adjudicating Authority in a sealed envelope.

(2) The authority shall place an acknowledgement slip in Form II appended to these rules inside the envelope before sealing it.

(3) The authority shall indicate a reference number and date of despatch on the sealed envelope.

(4) The sealed envelope shall be marked "Confidential" and "To be opened by the addressee only", the complete address of the Adjudicating Authority including his name, shall be mentioned on the sealed envelope with official seal.

(5) The authority shall place the sealed envelope inside an outer envelope along with an acknowledgement slip in Form III appended to these rules.

(6) The outer envelope shall be sealed and the complete address of the Adjudicating Authority shall be mentioned on the sealed outer envelope.

(7) The authority shall maintain registers and other records such as acknowledgement slip register, dak register for the purposes of this rule and shall ensure that necessary entries are made in the register immediately as soon as a copy of the reasons along with the material in respect of survey are forwarded to the Adjudicating Authority.

5. Acknowledgement of receipt of a copy of the order of provisional attachment of property and the material and a copy of the reasons and the material in respect of survey by the Adjudicating Authority.—(1) On receipt of the outer sealed envelope along with Form II, the Adjudicating Authority or in his absence, the designated officer of the office of Adjudicating Authority, shall forward Form II duly filled in, signed and his name legibly written below his signature. The seal of the office of the Adjudicating Authority shall be affixed before forwarding Form II to the Director or the authorized officer or the authority, as the case may be, as a token of receipt of the sealed envelope.

(2) The Adjudicating Authority shall, on opening of the sealed envelope, forward Form I duly filled in, signed and his name legibly written below his signature. The seal of the office of the Adjudicating Authority shall be affixed before forwarding of Form I to the Director or the authorized officer or the authority, as the case may be, as a token of receipt of the copy of the order of provisional attachment of property along with the material and a copy of the reasons along with the material in respect of survey.

(3) Adjudicating Authority shall maintain registers and other records such as acknowledgement slip register, dak register and register showing details of receipt of a copy of the order of the Director or the authorized officer or the authority, as the case may be, along with the material for the purposes of this rule and shall ensure that necessary entries are made in the registers immediately on receipt of such order and the material and reasons and the material in respect of survey.

6. Period of retention of a copy of the order of provisional attachment of property and the material and a copy of the reasons and the material in respect of survey by the Adjudicating Authority.—The Adjudicating Authority shall retain a copy of the order of provisional attachment of property and the material and a copy of the reasons and the material for a period of ten years, or, if before the expiry of the said period of ten years,—

- (i) any proceedings under section 8 of the Act have been commenced, until the disposal of such proceedings; or
- (ii) where an appeal has been preferred to the Appellate Tribunal under section 26 of the Act, until the disposal of such appeal by the Appellate Tribunal; or
- (iii) where an appeal has been filed in the High Court under section 42 of the Act, until the disposal of such appeal by the High Court;

whichever is later.

7. Interpretation.—If any question arises relating to the interpretation of these rules, the matter shall be referred to the Central Government and the decision of the Central Government shall be final.

FORM I
[See sub-rule (2) of rule 3]
ACKNOWLEDGEMENT SLIP

Serial Number.....

Received a copy of the provisional Attachment Order bearing number dated along with the material containing pages from the Director/the authorised officer on[date] at[time].

Signature of the Adjudicating Authority

Date.....

.....
Name of the Adjudicating Authority
Office seal

To
.....
[Director or the authorised officer]
Address
.....
.....

FORM II

[See sub-rule (2) of rule 4]

ACKNOWLEDGEMENT SLIP

Serial Number.....

Received a copy of letter No. dated along with the reasons and the material containing pages from the [designation of the authority from whom received] on[date] at.....[time].

Signature of the Adjudicating Authority

Date.....

.....
Name of the Adjudicating Authority
Office seal

To

.....
[Authority]Address.....
.....
.....**FORM III**

[See sub-rule (5) of rule 3 and sub-rule (5) of rule 4]

ACKNOWLEDGEMENT SLIP

Serial Number.....

Received a sealed envelope bearing No. dated..... from [Director or the authorised officer or the authority from whom received as the case may be] on[date] at..... [time].

Signature of the Adjudicating Authority/
designated officer of the office of
Adjudicating Authority.

.....
Name of the Adjudicating Authority/
designated officer of the office of
Adjudicating Authority.
Office seal

To

.....
[Director or the authorised officer
or the authority as the case may be]

Address.....
.....
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