

THE PREVENTION OF MONEY-LAUNDERING (THE MANNER OF FORWARDING A COPY OF THE ORDER OF RETENTION OF SEIZED PROPERTY ALONG WITH THE MATERIAL TO THE ADJUDICATING AUTHORITY AND THE PERIOD OF ITS RETENTION) RULES, 2005¹

In exercise of the powers conferred by sub-section (1) and clause (x) of sub-section (2) of section 73 read with sub-section (2) of section 20 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 retention of seized property along with the material 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 Retention of Seized Property along with the Material to the Adjudicating Authority and the Period of its 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) “Adjudicating Authority” means an Adjudicating Authority appointed under sub-section (1) of section 6 of the Act;
- (c) “authorised officer” means an officer authorised by the Director under sub-section (1) of section 20 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;
- ³[(f) “material” means any material in possession of the officer authorized under sub-section (1) of section 20 of the Act including,—
 - (i) a report forwarded to a Magistrate under section 157 of the Code of Criminal Procedure, 1973 (2 of 1974) or a complaint filed

1. *Vide* G.S.R. 447(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.

3. Subs. by G.S.R. 20(E), dated 7th January, 2010, for clause (f) (w.e.f. 7-1-2010). Clause (f), before substitution, stood as under:

- ‘(f) “material” means any material in the possession of the authorised officer on the basis of which he has recorded reasons under sub-section (1) of section 20 of the Act including—
- (i) a report forwarded to the Magistrate under section 173 of the Code of Criminal Procedure, 1973 (2 of 1974) in relation to an offence under paragraph 1 of Part A, or paragraph 1 or paragraph 2 or paragraph 3 or paragraph 4 or paragraph 5 of Part B, of the Schedule; or
 - (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;’.

before a Magistrate or a court by a person authorized to investigate the scheduled offence for taking cognizance of such scheduled offence;

- (ii) report forwarded to a Magistrate under section 173 of Code of Criminal Procedure 1973 (2 of 1974) or 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) "order" means the order for retention of the property for the purposes of adjudication;
- (h) "seized property" means any property seized under section 17 or section 18 of the Act;
- (i) "Schedule" means the Schedule to the Act;
- (j) "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 the copy of the order of retention of seized property along with the material to the Adjudicating Authority.—(1) The authorised officer shall prepare the index of the copy of the order of retention of the seized property and the material and sign each page of such index of the copy of the order and the material and shall also write a letter while forwarding such index of the copy of the order and the material to the Adjudicating Authority in a sealed envelope.

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

(3) The authorised officer 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 authorised officer shall place the sealed envelope inside an outer envelope, along with an acknowledgement slip in Form II appended to these rules.

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

(7) The authorised officer 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 the copy of the order and the material are forwarded to the Adjudicating Authority.

4. Acknowledgement of receipt of the copy of the order of retention of seized property and the material 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 the Form II to the authorised officer 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 the Form I to the authorised officer as a token of receipt of the copy of the order of retention of seized property and the material.

(3) The Adjudicating Authority shall maintain registers and other records such as acknowledgement slip register, dak register, and register showing details of receipt of the copy of the order of retention 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.

5. Period of keeping the copy of the order of retention and the material by the Adjudicating Authority.—The Adjudicating Authority shall keep the copy of the order of retention of seized property 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.

6. 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 the copy of the order of retention of seized property and the material bearing Number dated from [the designation of the authorized officer] on [date] at..... [time].

Date.....

Signature of the Adjudicating Authority

.....

Name of the Adjudicating Authority

Office seal

To

.....

[the designation of the authorised officer]

Address

.....

.....

.....

FORM II

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

ACKNOWLEDGEMENT SLIP

Serial Number.....

Received a sealed envelope bearing number dated.....from
..... [the designation of the authorized officer] 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

.....

[the designation of the authorized officer]

Address

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