

(f) "President" means the Officer Commanding the Station as defined in clause (xxiv-a) of section 2 read with sub-sections (1) and (2) of section 20 of the Act.

**3. Presence of the members at the meetings of the Board**—No Member shall absent himself from the meetings of the Board without the express leave of the Board.

**4. Leave of absence by the Members**—A Member shall seek prior leave of absence from the Board by applying in writing to the President who shall obtain the orders of the Board on the application:

Provided that, in exceptional circumstances, the President may grant leave to a member subject to confirmation by the Board at the next meeting.

**Explanation**—For the purpose of this rule exceptional circumstances will include sudden illness, exigencies of service and personal compulsions, to be established by the Member to the satisfaction of the President.

**5. Leave of absence by the President**—In the case of the President, prior leave of absence shall be sanctioned by the Officer Commanding-in-Chief, the Command :

Provided that where the Officer Commanding-in-Chief the Command is satisfied that the President was unable for sufficient and reasonable cause to seek prior leave of absence, he may grant leave of absence ex-post-facto.



## 29. The Cantonments (Execution of Warrants For the Attachment and Sale of Immovable Property) Rules, 1986.

Notification Published in the Gazette of India  
Part II, Section 4, Dated September 20, 1986

Ministry of Defence

New Delhi, the 3rd September, 1986

**S. R. O. 291 dated 3-9-1986**—Whereas a draft of certain rules which the Central Government propose to make in exercise of the powers conferred by sub-section (6) of Section 94-A of the Cantonments Act, 1924 (2 of 1924) as required by sub-section (1) of Section 280 of the said Act was published with the notification of Government of India in the Ministry of Defence S. R. O. No. 114, dated 25.2.1986, in the Gazette of India, part II Section 4, dated the 15th March, 1986 inviting objections and suggestions from all the persons likely to be affected thereby till the expiry of a period of sixty days from the date of publication of the said Notification ;

Whereas the aforesaid Gazette was made available to the public on the 20th March 1986 ;

Whereas no objection or suggestion was received within the stipulated period;

Now, therefore, in exercise of the powers conferred by sub-section (6) of Section 94-A of the said Act, the Central Government hereby makes the following rules relating to execution of warrants for attachment and sale for immovable property :—

### CONTENTS

#### RULE:—

- |   |   |
|---|---|
| 1. Short title and commencement.                          | 10. Application of sale proceeds.             |
| 2. Definitions.   | 11. Surplus amount-how to be refunded.        |
| 3. Commencement of proceeding of sale.                    | 12. Suspension of warrant.                    |
| 4. Sale to be by public auction.                          | 13. Eviction from the property sold.          |
| 5. Notice of sale.  | 14. Fee to be charged.                        |
| 6. Condition of sale.                                     | 15. Remission of fee.                         |
| 7. Postponement of sale.                                  | 16. Manner of preferring claim over Property. |
| 8. Deposit to be made forthwith.                          | 17. Suspension of execution.                  |
| 9. When bid less than the reserved price can be accepted. | 18. Manner of settlement. Forms.              |

**1. Short title and commencement:—**

(1) These rules may be called the Cantonments (Execution of Warrants for the Attachment and Sale of Immovable Property) Rules, 1986.

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

**2. Definitions:**

In these rules, unless the context otherwise requires—

(a) "Act" means the Cantonments Act, 1924 (II of 1924);

(b) "Form" means a form appended to these rules;

(c) "immovable property" means as defined in the Transfer of Property Act, 1882 (4 of 1882);

(d) words and expressions used in these rules but not defined shall have the same meaning assigned to them in the Act;

**3. Commencement of proceeding of sale:—**

Where an immovable property has been attached by an order under section 94-A of the Act, the Executive Officer shall, on expiry of fifteen days from the date of attachment proceed to dispose of the immovable property so attached by sale.

**4. Sale to be by public auction:—**

Every sale of immovable property attached or sufficient portion thereof (if it is divisible) if the same can be conveniently severed shall be made by public auction by order of the Executive Officer. The decision whether an immovable property can be conveniently severed shall be made by the Executive Officer with the prior approval of the Board.

**5. Notice of sale:—**

(1) A notice of every intended sale by public auction under these rules shall be published in such registered newspapers in circulation in the local areas, and as often as the Executive Officer shall direct, having regard to the nature and value of the property to be sold.

(2) The notice shall specify the date, time and place of sale and shall contain a description and particulars of the property.

**6. Conditions of sale:—**

The Executive Officer shall fix a reserved bidding which shall not be divulged to any person either before, at or after the sale. Every sale shall be regulated by conditions which shall generally conform to those specified in Form 1. Any deviation therefrom shall be determined by the Board and duly approved by the Director. A copy of the notice and conditions of sale as specified in Form shall be fixed on a conspicuous part of the property and upon a conspicuous part of the office of the Cantonment Board and also, when the property is land paying revenue to the Government, in the office of the

Collector of the district in which the land is situate and at such other places as the Board may direct.

**7. Postponement of sale:—**

If there be no bid or the highest bid be below the reserved price, the Executive Officer shall postpone the sale.

**8. Deposit to be made forthwith:—**

If the amount to be deposited be not at once paid to or deposited with the Executive Officer, the bid of the person, who would otherwise have been declared to be the purchaser, shall be rejected and the property shall immediately be again put up for sale.

**9. When bid less than the reserved price can be accepted:—**

The Executive Officer may, for reasons to be recorded in writing, and subject to the prior approval of the Director accept a bid for less than the reserved price.

**10. Application of sale proceeds:—**

The Executive Officer shall apply the proceeds of sale or such part thereof as shall be required in discharge of the sum due and of the costs of recovery. The fees, if any, for the sale and attachment of immovable property shall also be included in the costs of recovery.

**11. Surplus amount how to be refunded:—**

The surplus, if any, shall be forthwith credited to the Cantonment Fund and the same be claimed by written application to the Executive Officer within six months from the date of sale and the refund thereof shall be made to the person in possession of the property at the time of the attachment and any surplus not claimed within six months as aforesaid, shall be the property of the Board.

**12. Suspension of warrant:—**

The Executive Officer may suspend or cancel the warrant where he is satisfied that such suspension is warranted by the circumstances of the case or where the sum due and the costs of recovery have been paid by the defaulter as prescribed in section 94-A (4) of the Act.

**13. Eviction from the property sold:—**

The Executive Officer may cause the eviction of any person who obstructs any action taken in pursuance of sub-section (5) of Section 94-A of the Act from the immovable property by any police officer and may also use such force as is reasonably necessary to effect entry on the said property.

**14. Fee to be charged:—**

For every warrant issued or attachment made, fees shall be charged at such rates not less than Rs. 500 and not more than Rs. 1,000 as the Board may, from time to time, specify with the sanction of the Central Government and such fees shall be included in the costs of recovery.

**15. Remission of fee:—**

The Board may, in its discretion, remit the whole or part of any fee chargeable under rule 14.

**16. Manner of preferring claim over property:—**

A person, other than the person liable for the payment of any tax, who has any claim in respect of a property attached may prefer a claim in writing to the Executive Officer.

**17. Suspension of execution:—**

The Executive Officer shall, on receipt of the claim suspend the execution of the warrant pending enquiry into the claim.

**18. Manner of settlement:—**

(1) The Executive Officer shall furnish a copy of the claim to the person liable for the payment of any tax and at the same time give written notice calling upon him to submit his reply, if any, within seven days of service of such notice.

(2) The Executive Officer shall, on receipt of the reply, if any, and after giving both the parties an opportunity of being heard, pass an order with regard to the claim which shall be final.

(3) At the hearing, the parties may represent in person or through a counsel.

(4) If the claim is allowed by the Executive Officer, the sale proceedings shall be subject to the order passed by him : provided that the Executive Officer may, in his discretion, release the property from attachment instead of proceeding with the sale.

(5) If the Executive Officer rejects the claim, he shall proceed with the sale of the immovable property as provided for in the Act and under these rules.

(6) Nothing in the order of the Executive Officer accepting a claim shall be deemed to confer on the claimant any right, title or interest in the immovable property attached.

**FORM NO 1.****Conditions of Sale of Immovable Property**

1. The property shall be put up for sale at a sum to be fixed by the Executive Officer at the time of sale. The highest bidder shall be the purchaser. If any dispute arises as to the last or highest bidding for the property, the same shall be put up again at a former bidding and re-sold.

2. No person shall at any bidding advance a less sum than shall be fixed by the Executive Officer or retract a bid.

3. The sale is subject to a reserved bidding which will be fixed by the Executive Officer.

4. The purchaser shall at the time of sale subscribe his name and address to his bidding in the Bidding Paper and all written notices and communications shall be deemed duly delivered to and served upon the purchaser by being left for him at such address unless or until he is represented by an Attorney or Advocate.

5. The Purchaser shall at the time of sale pay a deposit of twenty-five per cent on the amount of his purchase money to the Executive Officer otherwise the property shall be again immediately put up and re-sold.

6. The purchaser shall pay the amount of his purchase money (after deducting the amount paid as a deposit) to the Executive Officer within one calendar month from the day of sale. If the same be not so paid, then the purchaser shall pay interest on his purchase money at the rate of six per cent per annum from the end of one calendar month from the day of sale (or such longer period as may be allowed) to the day on which the same is actually paid.

7. Upon payment of the purchase money in the manner aforesaid, the purchaser shall be entitled to possession of (such parts of) the property (as are vacant) and to the rents and profits of such parts as are let as from the day of such payment.

8. The purchaser shall not be liable to pay any outgoings previous to the day of payment of the purchase money and rents and outgoings, shall be apportioned between the purchaser and the defaulter by the Executive Officer, if necessary. On the purchase money for the property being paid the purchaser shall at his own expense take such steps as may be necessary for the purchase or obtaining possession of the said property and the Executive Officer shall grant him a certificate to the effect that he has purchased the property to which the certificate relates. The stamp duty and registration fee on such certificate shall be borne by the purchaser.

9. The description of the property is believed to be correct and shall be taken as correct. If any error or mis-statement or omission shall appear to have been made in the particulars or description of the property, such error or mis-statement or omission shall not annul the sale nor entitle the purchaser to be discharged from his purchase, nor shall any compensation be made to the purchaser in respect thereof.

10. Property taxes in respect of the said property are a first charges on the said property subject to the prior payment of the land revenue, if any, due to the State Government.

11. The purchaser shall not require the production of or investigation into or make any objection or suggestion in respect of the title of the property put up for sale but shall assume that the owner of the property had then good right and title to the said property.

12. The property is sold subject to existing tenancies and to all rights and easements, if any, affecting the same and subject to all notices of any kind relating to the said property. The Executive Officer is not aware of any such right or easement affecting the said property.

13. The said property shall be at the risk as to fire or otherwise of the purchaser from the moment the same is knocked down to him.

14. If the purchaser shall not pay his purchase money at the time above specified or at other time which may be fixed by the Executive Officer, the amount paid as a deposit shall be forfeited to the Board and the Executive Officer shall be at liberty to re-sell the property.

**FORM NO.2**  
**(Form of Bidding Paper)**

Re: Auction sale of the property bearing .....  
Ward No.....  
Street No.....  
Situate at.....

I, whose name is hereunder subscribed bid at the sale by auction on the..... day of..... one thousand nine hundred and.....the sum set opposite to my name for, and became the purchaser of the above property specified in the notification of such sale, subject to the conditions produced at such sale :

Amount of highest bidding.	Amount of deposit received.	Amount remaining due.	Signature of the purchaser.	Purchaser's address and Description
1	2	3	4	5

**COMMENTS**

(1) Rules made under statute must be treated for all purposes of construction or obligation exactly as if they were in the Act and are to be of the same effect as if contained in the Act, and are to be judicially noticed for all purposes of construction or obligation. (See Maxwell on Interpretation of Statutes, 10th Ed., pp 50-51).

(2) The statutory rules cannot be described as or equated with administrative directions. The rules framed under an Act must be consistent with the Act and not in derogation of it. [AIR 1961 SC 751.]

(3) All Rules of procedure are intended to advance justice and not to defeat it. [AIR 1968 SC 488.]



**30. The Cantonments (Forms and Manner of Service of Notices) Rules, 1986.**

**Notification Published in the Gazette of India**  
**Part II Section 4, Dated November 8, 1986.**

**Ministry of Defence**  
**New Delhi, the 17th October 1986.**

S. R. O. 330 dated 17-10-1986—Whereas draft of rules which the Central Government proposes to make in exercise of the powers conferred by clause (m) of sub-section (2) of section 280 of the Cantonments Act, 1924 (2 of 1924), relating to forms of notices and the manner of their service, was published with the notification of the Government of India in the Ministry of Defence S.R.O. 235, dated 23rd June, 1986 in the Gazette of India, part II, Section 4, dated 26th July, 1986 inviting objections and suggestions from all the persons likely to be affected thereby till the expiry of a period of sixty days from the date of publication of the said Notification;

Whereas the aforesaid Gazette was made available to the public on 6. 8. 1986;

And whereas the objection received has been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 280 of the said Act, the Central Government hereby makes the following rules relating to forms of notices and the manner of their service:

**CONTENTS**

**RULE:—**

- 1. Short title and Commencement.
- 2. Definitions.
- 3. Form of Notices.
- 4. Manner of service of notices.
- 5. Application of provisions of sections 252 to 256-A.
- 6. Forms.

**1. Short title and commencement:—**

(1) These rules may be called the Cantonments (Forms and Manner of Service of Notices) Rules, 1986.

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