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**CALCUTTA OFFICIAL RECEIVERS ACT, 1938****7 of 1938****[22nd September, 1938]****CONTENTS**

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**CALCUTTA OFFICIAL RECEIVERS ACT, 1938****7 of 1938****[22nd September, 1938]**

An Act to provide for the administration and control of the office of Official Receiver of the High Court in Calcutta. WHEREAS it is expedient to provide for the administration and control of the office of Official Receiver of the High Court in Calcutta; It is hereby enacted as follows:

**1. Short title and commencement :-**

(1) This Act may be called the Calcutta Official Receiver's Act, 1938.

(2) It shall come into force on such date as the 1 [State] Government may by notification in the Official Gazette, appoint.

**2. Definitions :-**

In this Act unless there is anything repugnant in the subject or

context

- (1) "Court" means the High Court in Calcutta;
- (2) "Official Receiver" means the Official Receiver of the Court;
- (3) "prescribed" means prescribed by rules made by the 1 [State] Government under this Act.

### **3. Appointment, status, rights, liabilities, etc., of Official Receiver and Deputy Official Receiver :-**

- (1) There shall be an Official Receiver and there may be one or more Deputy Official Receivers.
- (2) The offices of Official Receiver and of Deputy Official Receivers (if any) shall be civil posts under the 2[Government] in India.
- (3) Subject to the provisions of sub-section (2) of section 6, all rights, privileges, titles and liabilities of the Official Receiver subsisting immediately prior to the commencement of this Act shall accrue to and vest in the Official Receiver appointed under this Act.
- (4) The person holding the office of Official Receiver immediately prior to the commencement of this Act shall without further appointment become the Official Receiver appointed under this Act, and it shall not be necessary for the Court to reappoint him under section 4 in any case in which he has previously been appointed a receiver.
- (5) A Deputy Official Receiver shall, subject to the control of the 3[State] Government and to general or special orders of the Official Receiver, be competent to discharge any of the duties and exercise any of the powers of the Official Receiver and shall, when discharging such duties or exercising such powers, have the same rights and privileges and be subject to the same liabilities as the Official Receiver.

### **4. Appointment of Official Receiver as receiver and his duties, rights and liabilities as such :-**

Subject to, and in accordance with, the provisions of this Act and of rules made thereunder but notwithstanding the provision of sub-section (2) of section 3, the Official Receiver may be appointed a receiver by the Court in respect of any property, and save as provided in this Act, he shall have the same powers, duties and liabilities, shall be entitled to the same rights and privileges and

shall be subject to the same control by the Court as any other receiver so appointed.

### **5. Conditions of receivership :-**

(1) The Official Receiver shall not act as receiver in respect of any property except in accordance with the provisions of this Act and of rules made thereunder.

(2) Notwithstanding anything contained in any other law, the Official Receiver

(a) shall not be required by the Court to enter into any bond or security, and

(b) shall always be a sole receiver, and it shall not be lawful to appoint him to be a receiver in respect of any property jointly with any other person.

### **6. Liability of State revenues in certain cases :-**

(1) The <sup>1</sup>[Consolidated Fund of the State of West Bengal] shall be liable to make good all sums required to discharge any liability which the Official Receiver may, as a receiver appointed by the Court, be personally liable to discharge :

Provided that neither the <sup>2</sup>[Consolidated Fund of the State of West Bengal]

(2) Nothing in sub-section (1) shall be deemed to render liable the <sup>5</sup>[ Consolidated Fund of the State of West Bengal] or any Official Receiver appointed under this Act for anything done by, or under the authority of, any Official Receiver of the Court before the commencement of this Act.

(3) Nothing in sub-section (1) shall prevent the <sup>6</sup>[State] Government from recovering any sum paid by them thereunder from the Official Receiver liable personally to pay such sum. <sup>3</sup> \* \* \*

1. Words subs. by W.B. Act 18 of 1959.

2. Word subs. by Act 18 of 1959.

3. Sub-sec. (4) om. by W.B. Act 18 of 1959.

### **7. Fees :-**

(1) the Official Receiver shall charge such fees, by way of percentage or otherwise as may in consultation with the Court be

prescribed, provided that in the case of any receivership accepted by him before the commencement of this Act, he shall charge fees in accordance with the law then in force.

(2) The fees prescribed under sub-section (1) may be at different rates for different <sup>1</sup>\* \* \* classes of properties.

<sup>2</sup> (3) The Official Receiver shall charge such fees as may in consultation with the Court be prescribed for the grant of copies by him, of statements of account, minutes of proceedings, possession and inventory reports or any other public document in his custody relating to his functions as Official Receiver and for the production and inspection of any of such record or document.

1. Word om. by W.B. Act 18 of 1959.

2. Sub-sec. (3) ins. by W.B. Act 18 of 1959.

### **8. Transfer and payment of fees :-**

<sup>1</sup> (1) The Official Receiver shall transfer and pay into the Consolidated Fund of the State of West Bengal all fees received by him under section 7 after the commencement of this Act.

(2) Any fees or remuneration received by the Official Receiver as agent of an Official Receiver (by whatever designation called) of another Court or in accordance with the provisions of any other Act shall be similarly so transferred and paid by him.

1. Sub-sec. (1) subs. by W.B. Act 18 of 1959.

### **9. Receipt withdrawal, payment and investment by the Official Receiver :-**

<sup>1</sup>

(1) The Official Receiver shall transfer and pay into the public account of the State of West Bengal all monies received by him in the administration of any property in respect of which he has been appointed a receiver by the Court.

(2) Subject to the control of the State Government and in accordance with such procedure as may be prescribed

(a) the Official Receiver shall be entitled to withdraw from and out of the account referred to in sub-section (1)

(i) the amounts required for the time being to meet the demands in respect of the administration of the properties under his control or to make any payments that may be prescribed,

(ii) any amount which may be required for investment in any particular case;

(b) the Official Receiver shall invest the amount withdrawn under sub- clause (ii) of clause (a) in such securities as may be prescribed; and

(c) the Official Receiver may, if in his opinion any part of the money so invested is required to meet the demands or to make the payments referred to in clause (a), realise such part of the sums invested as may be necessary for such purposes.

(3) The Official Receiver shall transfer and pay into the account referred to in sub-section (1) in such manner and at such times as may be prescribed the proceeds of the realisation of investments under clause (c) of sub-section (2), any profits accruing from such realisation and the interest earned by any investments under clause (b) of sub-section (2).

(4) The Official Receiver shall maintain a personal deposit account in the prescribed manner and shall pay into such account all sums withdrawn under clause (a) of sub-section (2) and any other sum as may be prescribed.

(5) Nothing in this section shall be deemed to affect the power of the Court to give directions to the Official Receiver in regard to the amount and manner of investment, or of the realisation of investment, of any property held by him as a receiver appointed by the Court.

1. Sec. 9 subs. by W.B. Act 18 of 1959.

#### **10. Suits by or against the Official Receiver :-**

(1) Nothing in section 80 of the Code of Civil Procedure, 1908, shall apply to any suit against the Official Receiver in which no relief is claimed against him personally.

(2) The Official Receiver shall not sue or be sued without the express permission of the Court.

(3) Subject to the provisions of this Act and of all other law relating to receivers appointed by the Court, the Official Receiver may sue and be sued by and in the name of "The Official Receiver in the matter of....." and in that name, may hold property of every description, make contracts, enter into engagements binding upon

himself and his successors in office and do all other acts necessary or expedient to be done in the execution of his office.

**11. Power of State Government to make rules :-**

**1**

(1) The State Government may make rules for carrying into effect objects of this Act in regard to the functions of the Official Receiver.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for (a) the distribution of work between the Official Receiver and any Deputy Official Receiver;

(b) the payment or recovery of any sums by the 13[State] Government under section 6;

(c) the fees to be charged by the Official Receiver under section 7 and the manner in which the same are to be collected and accounted for;

<sup>2</sup>(d) the manner in which and the times at which fees or remuneration referred to in section 8 shall be transferred and paid;

(e) the receipts, payments and accounts of the Official Receiver;

(f) the audit of the accounts of the Official Receiver;

(g) <sup>3</sup>[the insurance of such properties and assets or] the safe custody of such monies and securities as may come into the hands of or under the control of, the Official Receiver;

(h)<sup>4</sup>\* \* \* \*

<sup>5</sup>(i) the manner and times of making payments into, and the procedure to be followed in making withdrawals from, the account referred to in sub-section (1) of section 9;

<sup>5</sup>(j) the investment of monies, the securities for investment and the realisation of investments under section 9;

<sup>5</sup>(k) the payments referred to in clause (a) of sub-section (2) of section 9 ;

<sup>8</sup> (l) the personal deposit account and the sums payable therein under sub-section (4) of section 9.

1. Sub-sec. (1) subs. by W.B. Act 18 of 1959.

2. Clause (d) subs. by W.B. Act 18 of 1959.
3. Words ins. by W.B. Act 18 of 1959.
4. Clause (h) om. by W.B. Act 18 of 1959.
5. Clauses (i) to (k) subs. by W.B. Act 18 of 1959.
8. Clause (1) ins. by W.B. Act 18 of 1959.