

NEW DELHI, SATURDAY, JULY 11, 1953

PART II—SECTION 4

Statutory Rules and Orders issued by the Ministry of Defence

S.R.O. 308.—In exercise of the powers conferred by section 16 of the Army and Air Force (Disposal of Private Property) Act, 1950 (XL of 1950), the Central Government hereby makes the following rules :—

1. Short title.—These rules may be called the Army and Air Force (Disposal of Private Property) Rules, 1953.

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

- (1) “the Act” means the Army and Air Force (Disposal of Private Property) Act, 1950 ;
- (2) “commanding officer” means the officer commanding the corps, department, detachment or unit to which the deceased or deserter belonged ;
- (3) “corps” means corps as prescribed by sub-rule (c) of the rule 161 of the Indian Army Act Rules, 1911 ;
- (4) “officer” includes a Warrant Officer subject to the Air Force Act, 1950 ;
- (5) “Section” means a section of the Army and Air Force (Disposal of Private Property) Act, 1950 ;
- (6) “Sub-section” means a sub-section of a section of the Army and Air Force (Disposal of Private Property) Act, 1950.

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Property of deceased persons other than officers

3. Securing of property.—The commanding officer shall keep the property secured by him under section 3 in a place of security.

4. Inventory.—The commanding officer shall also prepare an inventory of any moveable property left in camp or quarters of the deceased which for some reason cannot be collected, stating sufficient details and estimated value thereof and the reasons for its non-collection.

5. Savings as to the securing of property and preparation of inventory.—Where payment of the debts and expenses recoverable under the Act has been secured by a representative, or a person appearing to the commanding officer to be entitled to receive or to administer the estate or where there are no such debts and expenses to be recovered, the commanding officer may abstain from securing and making an inventory of the property of the deceased, if so requested by the representative, or such person.

6. Drawing of pay and allowances.—(1) The commanding officer may require the appropriate paying authority either to pay to him the pay and allowances due to the deceased or to hold the same on his behalf until disposed of by such commanding officer.

(2) Where the pay and allowances have been required under sub-rule (1) to be held on behalf of the commanding officer, the appropriate paying authority shall not effect any recoveries therefrom on account of any public claim against the deceased after the receipt of such requisition from the commanding officer.

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7. Listing of regimental and other debts in camp or quarters.—The commanding officer shall ascertain and verify and prepare a list of all the regimental and other debts in camp or quarters of the deceased and shall, before providing for their payment, have any doubt or difference about them settled.

8. Funeral expenses.—The actual and necessary expenses of the funeral, in or out of India of any person subject to the Army Act, 1950, or the Air Force Act, 1950 shall be borne by the Government to such extent as may be provided for in the relevant regulations issued under the authority of the Government of India from time to time.

9. Security for the payment of debts and expenses recoverable under the Act.—The security required to be given under sub-section (4) of section 3 shall be a bond in the form given in Forms I and II of Schedule I to these rules, accompanied by a surety if considered necessary by the commanding officer.

10. Time limit for securing debts and expenses recoverable under the Act.—If payment of the debts and expenses recoverable under the Act is not made or secured by a representative under sub-section (4) of section 3, or by other person appearing to the prescribed person to be entitled under section 10, within three months from the date of death, the commanding officer shall proceed to provide for their payment himself.

11. Custody of moneys.—Any cash collected or moneys realized by sale or conversion of property or from any bank shall be deposited, if practicable, in the civil treasury or nearest branch of the Reserve Bank of India or of the Imperial Bank of India, in a current account to the credit of the commanding officer, otherwise in a regimental treasure chest or unit imprest account.

12. Saving of certain property from sale or conversion.—(1) The commanding officer may, if he thinks fit, postpone any sale or conversion of the property of the deceased until such time as a representative or a person appearing to the prescribed person to be entitled under section 10 has had an opportunity of notifying his wishes regarding the sale or conversion or the withholding from sale or conversion of any portion of the property.

(2) The commanding officer may comply with the wishes of a representative or such other person, but if he considers any such demand unreasonable, having regard to the insolvency of the estate or other similar reason, he may refuse to comply.

13. Mode of sale.—The property to be sold will be disposed of in the most advantageous manner either by private sale or by public auction. When property is sold by a public auction, a representative of the commanding officer shall be present at the auction, and shall furnish a certified statement of the particulars of the sale to the commanding officer.

14. Disposal of private firearms and ammunition.—Private firearms and ammunition forming part of the property of the deceased shall not be delivered to a representative or to other person to whom the property or surplus of the property is handed over under section 10, or to a purchaser not being duly licensed, or authorised without licence, to possess them. When the firearms and ammunition are not so delivered, they shall, be deposited at the nearest police station, or with a licensed dealer with the sanction of the District Magistrate concerned.

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15. Disposal of medals, orders and decorations.—(1) Medals and decorations of the deceased, whether issued before or after his death, shall not be sold for the purpose of paying the debts and expenses recoverable under the Act, nor shall they be handed over to the Administrator General when an estate is handed over to him for administration under section 7.

(2) When secured by the commanding officer, medals shall be disposed of as follows :—

- (a) If the deceased has left any directions about their disposal whether in his will or otherwise, according to those directions ;
- (b) if he has not, they may be sent to the widow, or next-of-kin of the deceased in the following order of relationship ; eldest surviving son or grandson ; eldest surviving daughter or daughter's son ; father ; mother ; elder surviving brother or sister ;
- (c) if medals cannot be disposed of as above, they may be sent to any relative or other person, who, in the opinion of the prescribed person will preserve them with due care as a memorial to the deceased.

(3) Orders and decorations, other than medals, shall also be disposed of in the manner aforesaid, except where the rules or terms of the order and decoration provide otherwise.

16. Expenses of administration.—Only necessary and reasonable expenses will be incurred by the commanding officer in relation to the disposal of an estate.

PART III

Property of deceased officers

17. Property of deceased officers.—The provisions of the preceding rules shall also apply to the property of deceased officers subject to the Army Act, 1950, or the Air Force Act, 1950, but with the following modifications, namely :—

- (a) references to the commanding officer shall be construed as references to a committee of adjustment or a standing committee of adjustment, as the case may be, constituted in this behalf in the manner provided hereinafter ;
- (b) references to sub-section (4) of section 3 in rules 9 and 10 shall be construed as references to section 4.

18. Committee of Adjustment.—(1) A committee of adjustment shall consist of three officers. Where practicable, the president should not be below the rank of Major or Squadron Leader.

(2) A committee of adjustment shall be constituted by the following officers :—

- (a) if the deceased was serving with his corps, department, detachment, or unit, by the commanding officer of the corps, department, detachment or unit, not being below the rank of Lieutenant Colonel or Wing Commander; if he is below that rank, then by the Brigade or equivalent Commander, the Air Officer Commanding, Command, or in the case of persons subject to the Army Act, 1950, the Station Commander ;
- (b) if the death occurred at sea, by the officer commanding the troops on board the ship;
- (c) in all other cases, by the Brigade or equivalent Commander.

(3) Where a committee cannot be constituted on board a ship, it shall

(4) If the officer authorised by sub-rule (2) or (3) to constitute a committee is, from any reason, unable to do so, he shall apply to superior authority.

19. Standing Committee of Adjustment.—(1) The Standing Committee of Adjustment shall consist of three officers. Where practicable, the president should not be below the rank of Major or Squadron Leader.

(2) The Standing Committee of Adjustment shall be constituted by order of the [Commander-in-Chief]¹ or of such other officer as he may authorize in this behalf, at such time and place as is thought fit by the [Commander-in-Chief] or the officer so authorized.

(3) The Standing Committee of Adjustment may be dissolved at any time by the authority which constituted it.

20. Constitution of committees when Standing Committee constituted.—No committee of adjustment shall be constituted so long as the Standing Committee of Adjustment remains constituted, and all references to a committee in these rules shall, during the period the Standing Committee remains constituted, be construed as references to the Standing Committee.

PART IV

Property of persons subject to the Army Act, 1950, or the Air Force Act, 1950, who desert, or are ascertained to be of unsound mind, or while on active service are officially reported missing.

21. Property of deserters.—The provisions of the preceding rules except rules 5, 8, 9, 10 and 12, shall apply, to the property of a deserter subject to the Army Act, 1950, or the Air Force Act, 1950, with the following modifications, namely:—

- (a) private arms and ammunition shall be deliverable only to a purchaser;
- (b) the medals, orders and decorations of the deserter shall, if secured, be sent to the Adjutant General, Army Headquarters, in the case of a deserter subject to the Army Act, 1950, and to the Director of Personnel, Air Headquarters in the case of a deserter subject to the Air Force Act, 1950, for disposal according to the relevant regulations or orders of the Government of India.

22. Property of persons of unsound mind.—The provisions of the preceding rules, except rules 8 and 21, shall apply to the property of a person subject to the Army Act, 1950, or the Air Force Act, 1950, who is ascertained to be of unsound mind in the manner hereinafter provided, as they apply to the property of a deceased person, with the following modification, namely:—

Whenever possible, the sale or conversion of his property may be deferred until he is removed from the active list or discharged from service.

23. Property of missing persons.—The provisions of the preceding rules, except rules 8, 21 and 22, shall apply to the property of a person subject to the Army Act, 1950, or the Air Force Act, 1950, who, while on active service, is officially reported missing, as they apply to the property of a deceased person, with the proviso that no action beyond the securing of his property, the drawing of his pay and allowances and ascertaining the regimental and other debts in camp or quarters shall be taken until he is officially presumed to be dead.

¹To be construed as chief of the Army Staff or Chief of the Air Staff. See Act No. 19 of 1955.

PART V

Prescribed person and the manner of paying him the surplus

24. Prescribed person for purposes of sections 3, 4, 5, 7, 8, 9, 11, 12 and 13.—The prescribed person for purposes of sections 3, 4, 5, 7, 8, 9, 11, 12 and 13 shall be :—

- (a) in relation to the estates of officers subject to the Army Act, 1950, the Secretary, Ministry of Defence ;
- (b) in relation to the estates of officers subject to the Air Force Act, 1950, the Secretary, Ministry of Defence ;
- (c) in relation to the estates of persons, other than officers, subject to the Army Act, 1950, Brigade or equivalent Commander or Military Attache to the Indian Embassy at Nepal in respect of persons domiciled in Nepal and Brigade or equivalent commander in respect of others ; and
- (d) in relation to the estates of persons other than officers, subject to the Air Force Act, 1950, the air or other officer in charge of a Command or Group Headquarters in respect of persons under their respective Commands, and the Director of Personnel, Air Headquarters, in respect of persons in any of the units directly administered by Air Headquarters.

25. Prescribed person for the purpose of section 10.—The prescribed person for the purpose of section 10 shall be the persons referred to in rule 24, and, so long as the commanding officer has under the Act the control of the property of a person, not being an officer or a deserter, or of the proceeds of sale or conversion of such property, shall also include such commanding officer provided the total amount of or value of the said property does not exceed one thousand rupees.

26. Payment of surplus by commanding officer or committee of adjustment to the prescribed person under section 3 or section 4.—(1) The surplus of an estate shall be paid to the prescribed person by deposit in an imprest account or deposit in the civil treasury to the credit of the officer maintaining the pay accounts of the deceased.

(2) On receipt of the statement of the imprest account or the treasury receipt as the case may be, the authority to whose credit the surplus has been deposited shall hold the amount until disposed of by the prescribed person.

(3) That part of the surplus which does not consist of money shall be kept by the commanding officer or the committee, as the case may be, in a place of security until disposed of by the prescribed person.

27. Payment of surplus by the Administrator-General to the prescribed person under section 7.—The surplus in the hands of an Administrator General shall be made over to the prescribed person in the manner provided for in rule 26.

PART VI

Other Provisions

28. Circumstances in which estate to be handed over to the Administrator General.—The Central Government may direct that the estate of a person not being a deserter, liable to be dealt with under the Act, shall be handed over to the Administrator General having jurisdiction in relation to that estate, in case it is apprehended that considerable difficulty or delay may arise in or about the collection or realisation of the effects in consequence of the character of any investment, or in consequence of it being requisite to institute some action or suit in

relation to the property, or in case there is some other peculiar circumstance connected with the property making it, in the judgment of the Central Government, expedient to take that course.

29. Form of Notice under section 8.—(1) The notice required to be published under section 8 shall be in the form given in Form III in Schedule I to these rules, with such variation as circumstances may require.

(2) The notice will be published in the *Gazette of India* and the *Gazette of the State* to which the deceased belonged. If considered necessary by the prescribed person, it may also be published once yearly in two newspapers to be selected by him.

30. Delivery of property or surplus under section 10.—In determining the person to whom the property or surplus may be delivered or paid under section 10, the prescribed person shall take into consideration the law or custom of succession applicable to the person whose property is under disposal and the wishes, if any, of such person in this respect.

31. Mode of delivering property or surplus to a representative or other person.—Property deliverable and money payable to a representative under section 3, 4 or 8, or to any other person under section 10, may be either handed over to him personally, or despatched or remitted to his last known address according to the procedure specified in this respect in the relevant regulations of the Government of India.

32. Manner in which a person may be ascertained to be of unsound mind.—The manner in which a person subject to the Army Act, 1950, or the Air Force Act, 1950, shall be ascertained to be of unsound mind for the purposes of the Act shall be by the finding of a medical board according to the procedure specified in this respect in the relevant regulations of the Government of India.

33. Reports.—(1) When the commanding officer or a committee of adjustment conclude the disposal of an estate in so far as they are empowered by the Act and these rules, he or it shall send to the person prescribed in rule 24 a detailed report of such disposal as soon thereafter as possible.

(2) When an estate is handed over to an Administrator General under the Act, he shall submit to the Central Government a return every six months of the estates handed over to him under section 7 and the manner in which they have been disposed of.

(3) The reports referred to in sub-rule (1) shall be accompanied by all the necessary documents and papers including those given in Schedule II to these rules.

(4) When an estate or surplus thereof is finally handed over under the Act to a representative or other person, a copy of the reports referred to in sub-rule (1) or (2) shall be supplied to him free of charge.

(5) If the commanding officer or a committee of adjustment does not dispose of an estate to the extent he or it is concerned therewith, within twelve months in the case of subjects of Nepal and five months in all other cases of the date of death or desertion, or the date on which the person whose estate is being dealt with is ascertained to be of unsound mind, or on which he is officially presumed dead, he or it will after that period submit to the Adjutant General, Army Headquarters

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in the case of persons subject to the Army Act, 1950, or to the Director of Personnel, Air Headquarters, in the case of persons subject to the Air Force Act, 1950, a report, showing the stage of, and the cause of delay in the disposal of an estate.

(6) The Standing Committee of Adjustment shall submit to the person prescribed in rule 24 a return, every six months, of all the estates being dealt with by it, showing in brief important details thereof including stage of disposal and the progress made.

34. Exercise of powers of commanding officer in certain cases.—(1) Where a person not being an officer, subject to the Army Act, 1950, or the Air Force Act, 1950, at the time of his death, or desertion, or being ascertained under the Act to be of unsound mind, or being officially reported missing while on active service, was serving outside India, he shall, for the purpose of the Act, be also deemed to have belonged to his record office, depot or regimental centre, as the case may be, at the said time, but the commanding officer of only one of them will dispose of the property of such person in India.

(2) Where a corps, department, detachment or unit to which a person, not being an officer, subject to the Army Act, 1950, or the Air Force Act, 1950, belonged at the time of his death, or desertion or being ascertained to be of unsound mind or being officially reported missing while on active service, ceases to exist, such person shall, for the purposes of the Act, be deemed to have belonged to his record office, depot or regimental centre, as the case may be, at the said time, but the commanding officer of only one of them will dispose of the property of such person.

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SCHEDULE I

Form I

FORM OF BOND TO BE EXECUTED BY THE REPRESENTATIVE OF A DECEASED PERSON (OFFICER) Vide sub-section (4) of section 3 of the Army and Air Force (Disposal of Private Property) Act, 1950 (XL of 1950).

To

The President of India.

WHEREAS I.....son of.....of..... have applied to the Committee of Adjustment (hereinafter called "the said Committee") that the property received by the said Committee under sub-sections (1) and (2) of section 3 of the Army and Air Force (Disposal of Private Property) Act, 1950 (hereinafter referred to as "the said Act") may be delivered over to me AND WHEREAS the said Committee has agreed to deliver over the property provided security as required by section 3(4) of the said Act is given and has ordered me to give security for the payment of the regimental and other debts in camp or quarters, if any, outstanding against the estate of my.....(relationship) late.....and of the funeral expenses of the deceased and of the expenses, if any, incurred by the said Committee in respect of the estate of the deceased with one/two surety/sureties AND WHEREAS.....son of.....of...../.....son of.....of.....and.....son of.....of.....has/have agreed to execute this bond as surety/sureties on my behalf.

NOW, in consideration of the said Committee delivering over the property as aforesaid to me.....(Name of representative of the deceased) we (1).....(Name of the representative of the deceased) and (2).....(Surety) son of.....of.....(Sureties) son of.....of.....of.....of.....and.....son of.....of.....hereby jointly and severally agree and undertake to pay and guarantee the payment to you and to your certain attorneys, successors and assigns, in full all the regimental and other debts in camp or quarters which the deceased.....owed at his decease, the funeral expenses of the deceased to the extent not paid by the Government and the expenses incurred by the said Committee in respect of the estate of late.....and agree to indemnify and keep you harmless in the event of a claim being made by any other person or persons against you and against all manner of actions, suits and other legal proceedings, costs, charges, damages and expenses whatsoever which shall or may at any time or times hereafter be brought, commenced, or sued by any person or body corporate whomsoever or whatsoever against or be occasioned to you, your successors and assigns or any of the officers or servants of the Government for or on account of, in respect of, by reason of, or consequent upon the property being delivered as aforesaid and we shall jointly and severally make good any loss which may be suffered by you and shall otherwise indemnify and keep you indemnified against such loss.

As WITNESS our hands the.....day of.....

Signed and delivered by the above-named..... (Name of the representative of the deceased) in the presence of— (1) (2)

Signature..... Designation..... Address.....

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Signed and delivered by the above-named surety

in the presence of—

- (1)
(2)

Signed and delivered by the above-named surety

in the presence of—

- (1)
(2)

SCHEDULE I

Form II

FORM OF BOND TO BE EXECUTED BY THE REPRESENTATIVE OF A DECEASED PERSON (other than an officer)

[Vide sub-section (4) of section 3 of the Army and Air Force (Disposal of Private Property) Act, 1950 (XL of 1950).]

To

The President of India.

WHEREAS I.....son of.....of.....have applied to the Commanding Officer of the.....Corps/Department/Detachment/Unit (hereinafter called "the said Commanding Officer") that the property received by the said Commanding Officer under sub-sections (1) and (2) of section 3 of the Army and Air Force (Disposal of Private Property) Act, 1950 (hereinafter referred to as "the said Act") may be delivered over to me AND WHEREAS the said Commanding Officer has agreed to deliver over the property provided security as required by sub-section (4) of section 3 of the said Act is given and has ordered me to give security for the payment of the regimental and other debts in camp or quarters, if any, outstanding against the estate of my.....(relationship) late.....and of the funeral expenses of the deceased and of the expenses, if any, incurred by the said Commanding Officer in respect of the estate of the deceased with one/two surety/sureties AND WHEREAS.....son of.....of...../.....son of.....of.....and.....son of.....has/have agreed to execute this bond as surety/sureties on my behalf.

NOW, in consideration of the said Commanding Officer delivering over the property as aforesaid to me.....(Name of representative of the deceased) we (1).....(name of the representative of the deceased) and (2).....(Surety) son of.....of...../(Sureties).....son of.....of.....and.....son of.....of.....hereby jointly and severally agree and undertake to pay and guarantee the payment to you and to your certain attorneys, successors, and assigns, in full all the regimental and other debts in camp or quarters which the deceased.....owed at his decease, the funeral expenses of the deceased to the extent not paid by the Government and

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the expenses incurred by the said Commanding Officer in respect of the estate of late.....and agree to indemnify and keep you harmless in the event of a claim being made by any other person or persons against you and against all manner of actions, suits, and other legal proceedings, costs, charges, damages and expenses whatsoever which shall or may at any time or times hereafter be brought, commenced, or sued by any person or body corporate whomsoever or whatsoever against or be occasioned to you, your successors and assigns or any of the officers or servants of the Government for or on account of, in respect of, by reason of or consequent upon the property being delivered as aforesaid and we shall jointly and severally make good any loss which may be suffered by you and shall otherwise indemnify and keep you indemnified against such loss.

AS WITNESS our hands the..... day of.....

Signed and delivered by the above-named.....

(Name of the representative of the deceased) in the presence of—

- (1)
(2)

Signature.....
Designation.....
Address.....

Signed and delivered by the above-named surety.....in the presence of—

- (1)
(2)

Signed and delivered by the above-named surety.....in the presence of—

- (1)
(2)

SCHEDULE I
Form III
Form of Notice
(Rule 29)

Re the estate of.....(No., Rank, Name, Unit)..... who
*died on
was ascertained to be of unsound mind from
was officially presumed to be dead from

Notice is hereby given under section 8 of the Army and Air Force (Disposal of Private Property) Act, 1950 (XL of 1950), that the sum of rupees..... representing the surplus of the above-mentioned estate is available with the †..... for payment to the representative of the said.....(No., Rank and Name) Any person claiming to be representative of the said.....(No., Rank and Name).....should submit his claim to the †..... within two months from the date of notice for payment of the said surplus.

(Signature, designation and address of prescribed person)

Place.....
Date.....

*Strike out whichever is inapplicable.
†Designation and address of the prescribed person to be given.

SCHEDULE II

(Rule 33)

List of documents which should accompany (in duplicate) the report (A.F.A. 2) of disposal referred to in rule 33

A. When estate is handed over under sub-section (4) of section 3, or section 4 or section 10.—(1) Statement of particulars respecting the person whose estate has been disposed of. (IAFE-925).

(2) Certified true copy of will (if any) authenticated by the commanding officer or the committee or the standing committee.

(3) Certified true copy of power of attorney or probate or letters of administration, or succession certificate, if any, authenticated by the commanding officer, the committee or the standing committee, in case the estate is taken over by a representative.

(4) Bond securing payment of the debts and expenses recoverable under the Act, Schedule I, Forms I-II.

(5) Stamped receipt for the estate. (IAFE-923).

(6) Inventory of the property—(IAFE-924).

(a) Collected by the C.O. or Committee	}	If made.
(b) Not collected by the C.O. or Committee.		

(7) Six monthly and/or final statement of pay accounts.

B. When surplus of estate is remitted to the prescribed person.—(1) Statement of particulars respecting the person whose estate has been disposed of. (IAFE-925).

(2) Original will or authenticated copy, as available.

(3) Inventory of the property :—(IAFE-924).

(a). Collected by the C.O. or Committee	}	If made.
(b) Not collected by the C.O. or Committee		

(4) Sale and conversion accounts.

(5) Stamped receipt for reserved articles, and medals and decorations, if any, disposed of.

(6) Account of sums received and disbursed.

(7) Account of surplus assets, showing the credit balance, estimated value of reserved articles and outstanding assets due to the estate.

(8) Certificate required to be furnished under rule 13.

(9) Other receipts and vouchers, if any.

(10) Six monthly and/or final statement of pay accounts.