

THE BOMBAY PUBLIC TRUSTS RULES, 1951

1. Short title.-

- (1) These rules may be called the Bombay Public Trusts Rules, 1951.
- (2) They shall extend to the whole of the State of Maharashtra.

2. Mode of previous publication of notification under sub-section (4) of section 1.-

The draft of a notification under sub-section (4) of section 1 of the Act shall, in addition to its publication in the *Official Gazette*, be published as follows :-

- (1) If it pertains to the application of the provisions of the Act to any public trust or class of public trusts,
 - (a) in such newspapers as may be determined by the State Government from time to time,
 - (b) by affixing a copy thereof on the notice board at the office of –
 - (i) the Charity Commissioner,
 - (ii) (Deleted),
 - (iii) the Collector in Greater Bombay, and
 - (iv) the Mamlatdar or Mahalkari or (as the case may be the Tahsildar) in areas outside Greater Bombay.
- (2) If it pertains to the exemption of any public trust or class of trusts from all or any of the provisions of the Act, subject to conditions, if any, as may be specified in this behalf,
 - (a) in such newspaper or newspapers as may be determined by the State Government for the purpose,
 - (b) by affixing a copy thereof on the notice board at the office of –
 - (i) the Charity Commissioner, and
 - (ii) the Deputy and Assistant Charity Commissioner concerned.

3. Definitions.-

In these rules, unless there is anything repugnant in the subject or context, "Bank" means the Reserve Bank of India.

4. Regions, sub-regions and their limits and Headquarters.-

(1) The Regions and Sub-Regions (if any) under the Regions for the purposes of the Act, and the limits of such Regions and Sub-regions and headquarters thereof, shall be as follows namely.-

Serial No.	Regions	Limits of the Regions	Head-quarters	Sub-Regions of the Regions	Limits of the Sub-regions	Head-quarters of the Sub-Regions
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Greater Bombay	Greater Bombay defined in clause (21) of section 3 of the Bombay General Clause Act, 1904.	Bombay	Nil	Nil	Nil
2	Pune	Pune District	Pune	Nil	Nil	Nil
3	Solapur	Solapur District	Solapur	Nil	Nil	Nil
4	Kolhapur	Kolhapur District	Kolhapur	Nil	Nil	Nil
5	Sangli	Sangli District	Sangli	Nil	Nil	Nil
6	Satara	Satara District	Satara	Nil	Nil	Nil

7	Ratnagiri	Districts of Ratnagiri and Sindhudurg	Ratnagiri	Sindhudurg District	Sindhudurg District	Kudal
8	Thane	Districts of Thane and Raigad District	Thane	Raigad	Raigad	Alibag
9	Nashik	Nashik District	Nashik	Nil	Nil	Nil
10	Ahmednagar	Ahmednagar District	Ahmednagar	Nil	Nil	Nil
11	Jalgaon	Jalgaon District	Jalgaon	Nil	Nil	Nil
12	Dhule	Dhule District	Dhule	Nil	Nil	Nil
13	Aurangabad	Districts of Aurangabad and Jalna	Aurangabad	Jalna	Jalna District	Jalna
14	Parbhani	District of Parbhani	Parbhani	Nanded	Nanded District	Nanded
15	Latur	Districts of Latur, Osmanabad and Beed	Latur	(1) Osmanabad District (2) Beed District	(1) Osmanabad District (2) Beed District	(1) Osmanabad District (2) Beed
16	Nagpur	Districts of Nagpur and Bhandara	Nagpur	Bhandara	Bhandara District	Bhandara
17	Amravati	Districts of Amravati and Wardha	Amravati	Wardha	Wardha District	Wardha
18	Chandrapur	Districts of Chandrapur and Yavatmal	Chandrapur	(1) Yavatmal (2) Gadchiroli	(1) Yavatmal (2) Gadchiroli	(1) Yavatmal (2) Gadchiroli

19	Akola	Districts of Akola and Buldhana	Akola	Buldhana	Buldhana District	Buldhana
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(2) There shall be a Public Trusts Registration Office at the Headquarters of every Region and Sub-Region mentioned in sub-rule (1) of this rule.

4A. Qualification for appointment of Director of Accounts and Assistant Directors of Accounts.-

(1) A person to be appointed as a Director of Accounts under section 6, shall be one -

- (a) who is a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 (XXXVIII of 1949), and whose name is entered in the Register maintained under that Act for a consecutive period of not less than eight years; or
- (b) who holds a degree in Commerce of any University in India established by law, or any other University recognized for the purpose, by the State Government at least in the second class with Advance Accountancy and Auditing as Special subjects and who has thereafter experience for atleast 12 years in any post involving work of accounts in a Government or local authority establishment, or in any firm or company of Chartered Accountants, or in any reputed commercial firm; or
- (c) who is holding or has held for not less than five years the post of an Assistant Director of Accountants in the Maharashtra Charity Organisation; or
- (d) who has served as an officer in the Maharashtra Finance and Accounts Service Class I (Senior) for a period of not less than five years.

(2) A person to be appointed as an Assistant Director of Accounts under section 6 shall be one-

- (a) who is a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 (XXXVIII of 1949), and whose name is entered in the Register maintained under that Act for a consecutive period of not less than three years; or
- (b) who holds a degree in Commerce of any University in India established by law, or any other University recognized by the State Government as aforesaid at least in the second class with Advance Accountancy and Auditing as his Special subjects, and who has thereafter experience, for not less than seven years in any post involving the work of accounts in a Government or local authority establishment, or in any firm or company of Chartered Accountants or in any reputed commercial firm; or
- (bb) who holds a degree in Commerce of any University in India established by law, or any other University recognized by the State Government as aforesaid, with Advance Accountancy and Auditing as his special subjects, and who has held any post in the Charity Organisation, after obtaining such degree for not less than ten years, in one or more offices, not lower in rank of Superintendent, Accountant or Inspector; or
- (c) who has served as an officer of the Maharashtra Finance and Accounts Service Class I (Junior) for a period of not less than two years.

Explanation.- If any question arises under the rule whether or not a commercial firm is "reputed" the decision of the State Government thereon shall be final.

5. Maintenance of a Register of Public Trusts.-

In every Public Trusts Registration Office or Joint Public Trusts Registration Office there shall be maintained a Register of Public Trusts in the form of Schedule I hereto in respect of public trusts registered or deemed to be registered under the Act:

Provided that the Charity Commissioner may, in the case of any Public Trusts Registration Office or Joint Public Trusts Registration Office, direct the

maintenance of such a register separately for different classes of public trusts or areas within the region or sub-division.

(2) Deleted.

6. Application for registration of a public trusts under section 18.-

(1) The application for registration of a public trust, in addition to the particulars specified in clauses (i) to (vii) of sub-section (c) of section 18, shall contain the following particulars :

- (a) Particulars of documents creating the trusts.
- (b) Particulars other than documents about the creation or origin of the trust.
- (c) Objects of the trust.
- (d) Sources of income of the trust.
- (e) Particulars of encumbrances, if any, on trust property.
- (f) Particulars of the scheme, if any relating to the trust.
- (g) Particulars of title deeds pertaining to trust property and the names of trustees in possession thereof.

The Charity Commissioner may, however, direct that in the case of any or all public trusts it shall not be necessary to give the particulars of the trust property of such value and such kind as may be specified by him.

(2) The application shall be in the form of Schedule II hereto.

(3) The application in addition to a copy of the instrument of trust, shall be accompanied by a copy of the scheme, if any, in operation in regard to the public trust.

(4) Every person signing the application shall subscribe on solemn affirmation before the Deputy or Assistant Charity Commissioner, a Justice of the Peace, an Executive Magistrate or a Notary appointed under the Notaries

Act, 1952 for the State of Maharashtra that the facts mentioned in the said application are true to the best of my knowledge and belief.

(5) The fee to accompany the application shall be in cash and the following amounts:-

	Rs.
(i) when the value of the property of a public trust does not exceed Rs.2,000	3
(ii) when the value of the property of a public trust exceeds Rs.2,000 but does not exceeds Rs.5,000.	5
(iii) when the value of the property of a public trust exceeds Rs.5,000 but does not exceeds Rs.10,000.	10
(iv) when the value of the property of a public trust exceeds Rs.10,000 but does not exceeds Rs.25,000.	20
(v) when the value of the property of a public trust exceeds Rs.25,000.	25

Provided that no such fee shall be charged in the case of public trusts deemed to have been registered under section 28.

(6) When on an application for registration of a public trust made under section 18, it has been decided by the Deputy or Assistant Charity Commissioner or any other competent authority under the provisions of the Act,

that the trust does not exist or that the trust is not a public trust to which the Act applies or that the value of the property of the public trust is less than the amount for which registration fee has been paid, the Deputy or Assistant Charity Commissioner or such other authority may direct the refund of the whole of the fee or such part of the fees as has been paid in excess of the fee payable under sub-rule (5), as the case may be, to the applicant.

(7) The memorandum referred to in sub-section (7) of section 18 shall be in the form of Schedule II-A hereto. Such memorandum shall be verified in the manner prescribed under sub-rule (4).

7. Manner of inquiries.-

Except as otherwise provided in the Act and these rules, inquiries under or for purposes of sections 19, 22, 22A, 28, 29, 36, 39, 41D, 41E(3), 43(2)(a), 47, 50A, 51, 54(3), and 79AA(2) or any other inquiry which the Charity Commissioner may direct to be held for the purposes of the Act, shall be held, as far as possible, in the Greater Bombay Region in accordance with the procedure prescribed for the trial of suits under the Presidency Small Cause Courts Act, 1882, and elsewhere under the Provincial Small Cause Courts Act, 1887. In any inquiry a party may appear in person or by his recognized agent or by a pleader duly appointed to act on his behalf:

Provided that any such appearance shall, if the Deputy or Assistant Charity Commissioner so directs, be made by the party in person.

7A. Public notice before making certain inquiries.-

(1) When on application or otherwise, any inquiry is to be made for purposes of sections 19, 22, 22A, 28 or 29 as to whether a public trust exists or whether any property belongs to a public trust, the Deputy or Assistant Charity Commissioner shall, subject to the provisions of this rule, give public notice of such inquiry as provided in sub-rule (3) by calling upon all persons concerned to submit their objections, if any, to him.

(2)(a) When any such inquiry is initiated on application, the Deputy or Assistant Charity Commissioner shall, by order in writing, -

- (i) call upon the applicant to pay the estimated cost of giving such public notice within a specified time, regard being had to the mode of issuing such public notice; or
- (ii) when publication of such notice by an advertisement in one or more local newspapers is ordered in addition to other modes of publication, allow the applicant to publish at his own cost the public notice prepared by the Deputy or Assistant Charity Commissioner in the newspapers approved by the said officer within a specified time.

(b) Notwithstanding anything contained in clause (a) the Deputy or Assistant Charity Commissioner may by order in writing exempt the applicant from payment of the whole or part of the cost of issuing such public notice, if he is satisfied that the applicant is not in a position to bear such cost, regard being had to the capacity of the trust to pay the financial position of the applicant or the nature of his interest in the matter.

(c) When the applicant fails to pay the estimated costs of giving such public notice within the specified time without reasonable excuse, or where the applicant is so exempted from depositing or meeting the cost of issuing such public notice or when the inquiry is made by the Deputy or Assistant Charity

Commissioner on his own motion, the Deputy or Assistant Charity Commissioner shall direct the cost to be initially met from the Public Trusts Administration Fund and then while making the final order shall pass appropriate orders as to its reimbursement or otherwise from the property of the trust or any party to the proceedings as he may deem fit.

(d) Failure on the part of the applicant to deposit or pay estimated or actual cost of giving such public notice within the specified time, or to publish it as an advertisement in the newspapers at his own cost within the specified time, as required by this sub-rule, shall amount to a contravention of the provisions of this rule for the purposes of section 67.

(3) The Deputy or Assistant Charity Commissioner shall give or cause to be given public notice of such inquiry -

- (a) either by advertisement in one or more local newspapers having wide circulation in the region or by beat of drums or any other method considered by him to be adequate in the circumstances of any case, regard being had to the value of the property involved and the capacity of the trust to bear the cost of advertisement in a newspaper, and
- (b) by affixing a copy of such notice on the 'Notice Board' of his office, and also on some conspicuous part of the property involved, if any, and
- (c) by issuing a notice to the person in occupation or possession of such property.

(4) No objection submitted under sub-rule (1) shall ordinarily be considered, unless it is submitted within thirty days from the date of publication of the notice which is the last in point of time.

8. Certificate of Registration.-

(1) When a public trust is enrolled in the Register of Public Trusts a certificate in the following form shall be issued to the trustee in token of the registration. Such certificate shall be signed by the Deputy or Assistant Charity Commissioner in charge of the Public Trusts Registration Office and shall bear the official seal.

Form of Certificate

It is hereby certified that the Public Trust described below has this day been duly registered under the Bombay Public Trusts Act, 1950 (Bom.XXIX of 1950) at the Public Trusts Registration Office Name of the Public rustNumber in the Register of Public Trusts Certificate issued to Given under my hand this Day of.....19 .

Signature

SEAL

Designation

(2) If any certificate of registration is lost, destroyed or defaced, the Deputy or Assistant Charity Commissioner may, on an application for the purpose, issue a duplicate thereof (the word "Duplicate" being clearly stamped in red ink) on payment of such charge therefor not exceeding two rupees as the Deputy or Assistant Charity Commissioner may deem fit.

8A. Registration of public trust when its name is duly changed.-

Where the name of any trust is duly changed and the Deputy or Assistant Charity Commissioner records this change of the name in respect of the trust in the Register of Public Trusts, the Deputy or Assistant Charity Commissioner

may either correct the original certificate is produced, or issue a fresh certificate of registration in the new name with the original registration number on payment of a sum not exceeding one rupee.

9. Mode of serving summons, notice or any other process.-

(1) Subject to the provisions of this rule, summons for the attendance of any person, whether a party or witness, a notice to a trustee including notice of demand or any other process for the purposes of an inquiry application, appeal or otherwise, under the Act may be served through registered post acknowledgement due, or through process server.

(1A) The actual amount necessary for service of summons, notice or any, other process (such actual amount being determined by a person duly authorized by the Charity Commissioner in this behalf, regard being had to the bulk of papers which are required to accompany the summons, notice or other process or, as the case may be, the distance which a process server has to travel for serving any such process), shall be deposited by the person for whom any such process has been served in the office of the Charity Commissioner or Regional or Sub-regional Office from which such summons, notice or other process has been served.

(1B) Summons may be sustained by a letter or letter of request where the person to be summoned is, in the opinion of the Charity Commissioner, Joint Charity Commissioner, Deputy Charity Commissioner or Assistant Charity Commissioner, of a rank entitling him to such a mark of consideration.

(1C) The summons, letter, notice or any other process shall unless the contrary is proved, be deemed to have been duly served on the person if it is sent by registered post and acknowledgement or refusal thereof has been received.

(1D) The process server shall give his report about the service of summons, notice or any other process on an affidavit to the Officer issuing the summons, notice or other process.

(2) No summons for the attendance of any witness or notice to a trustee including notice of demand or any other process shall be issued or shall be caused to be issued at the instance of a party to an inquiry or other proceeding under the Act, unless the party first deposits with the Charity Commissioner or Deputy or Assistant Charity Commissioner, as the case may be, such sum as in his opinion is sufficient to defray the cost of traveling and other allowances payable to such witness trustee or person on which the process is to be served.

9A. Signing of processes.-

All summonses, letters substituted for summonses and other processes (including notice of demand in respect of contribution) may be signed by an officer authorised in this behalf by the Charity Commissioner or Deputy or Assistant Charity Commissioner.

10. Allowances of witnesses.-

(1) Allowances payable to witnesses summoned for any inquiry or other proceeding under the Act shall vary according to the status and circumstances of witnesses who shall be classed as follows:-

Class (i) will generally include large landholders, professional men, big businessmen and persons of like status.

Class (ii) will generally include ordinarily landholders, clerks, artisans, small businessmen and persons of like status.

Class (iii) will generally include shall cultivators, labourers and persons of like status.

(2) Local witnesses shall be paid conveyance allowance per day at the following rates, namely:-

	In Greater Bombay	Outside Greater Bombay
Class I	7.50	5.00
Class II	5.00	3.00
Class III	3.00	2.00

Class III witnesses may, at the discretion of the officer holding the inquiry or other proceedings, be paid in addition a subsistence allowance at the rate prescribed for that class.

(3) Outside witness shall be paid traveling and subsistence allowance as shown below :

Class	Travelling allowance			Subsistence allowance ___
	By rail	by road	by steamer	per diem _____
				<u>In Greater</u> <u>Outside</u>
				Bombay Greater
				Bombay

Class I	I Class	Actual expenses subject to maximum of 30 paise per kilometer.	Passage by highest class	Rs. P. 7.50	Rs. P. 5.00
Class II	II Class	Actual expenses subject to maximum of 15 paise per kilometer.	Passage by middle if there are three classes; by lower class if only two classes	5.00	3.00
Class III	III Class	Actual expenses subject to maximum per kilometer.	Lowest class of 5 paise	3.00	2.00

(4) The Officer holding the inquiry or other proceeding may however, for reasons recorded in writing, sanction in the case of any witness allowances at such higher rates as he may deem fit.

(5) The officer may, in the case of any person summoned to give evidence as an expert, allow in addition reasonable remuneration for the time occupied both in giving evidence and in performing any work of an expert character necessary for the enquiry or other proceeding.

11. Manner of recording evidence of witnesses.--

(1) At any inquiry or other proceeding under the Act as the examination of each witness proceeds the Officer holding the inquiry or proceeding shall make a memorandum in English of the substance of what each witness deposes and

such memorandum shall be signed by the Officer and shall form part of the record.

(2) Where the Officer is unable to make a memorandum as required by sub-rule (1), he shall record the reason of his inability and shall cause the memorandum to be made in writing from his dictation.

(3) Notwithstanding anything contained in the preceding sub-rules, it shall be within the discretion of the officer holding an inquiry to record or get recorded the verbatim statement of the witnesses instead of the memorandum, and whenever such a statement is recorded, such officer shall require the witness to sign the same after it is read over and admitted to be correct by him.

(4) It shall be permissible for the officer holding an inquiry to dictate in the presence of the parties the deposition or its translation in English if in vernacular directly on the typewriter when such facility as available. If the evidence is given in vernacular, the dictation of translation in English shall be in addition to the vernacular deposition.

12. Maintenance of register of findings in certain cases.--

There shall be maintained in every Public Trusts Registration Office or Joint Public Trusts Registration Office a register of application in the form of Schedule II-B hereto, where a Deputy or Assistant Charity Commissioner after considering such application has recorded a finding that no trust exists, or that any property alleged in such application to be belonging to the trust does not belong to it.

13. Changes in the Register of Public Trusts.--

(1) Any change or proposed change in any of the particulars recorded in the Register of Public Trusts shall, under sub-section (1) of section 22, be reported

to the Deputy Charity Commissioner or Assistant Charity Commissioner by the trustee of the trust concerned in the form of Schedule III hereto and such report shall be verified in the manner provided in sub-rule (4) of rule 6.

(1A) The memorandum referred to in sub-section (1 A) of section 22 shall be in the form of Schedule III-A hereto, and shall be verified in the manner provided in sub-rule (4) of rule 6.

(2) Deleted.

(3) Amendments in the entries in the Register of Public Trusts shall be made by scoring out in red ink the original entry or entries, and the addition or alteration initialed by the Deputy or Assistant Charity Commissioner.

(4) The Deputy or Assistant Charity Commissioner may of his motion correct clerical or accidental mistakes in any of the entries in the Register of Public Trusts.

13AA. Deleted.

13A. Manner of verification of applications under section 22B.--

The application under section 22B shall be verified in the manner prescribed under sub-rule (4) of rule 6.

13B. Form and manner of verification of memorandum under section 22C.

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The memorandum referred to in section 22C shall be in Form of Schedule II-A hereto and shall be verified in the manner provided under sub-rule (4) of rule 6.

14. Form of book under section 23.--

The Deputy or Assistant Charity Commissioner receiving under section 23 copies of entries in regard to immovable property situate within his region or

sub-region of public trusts registered in other regions or sub-regions shall keep an abstract of such entries in a book maintained in the form of Schedule-V hereto.

15. Registers of decisions of Charity Commissioner and of Courts.--

(1) There shall be maintained in the office of the Charity Commissioner a register in the form of Schedule-VI hereto, of his decisions and of Courts relating to public trusts communicated to the Charity Commissioner under section 26.

(2) Also, there shall be maintained in each Public Trusts Registration Office or Joint Public Trusts Registration Office a register in the form of Schedule VII hereto of such decisions forwarded by the Charity Commissioner for effecting the necessary changes in the Register of Public Trusts.

16. Form of memorandum under section 28A.--

The memorandum referred to in section 28A shall be in the form of Schedule II-A hereto.

16A. Form of budget.--

The budget to be submitted under section 31A by a trustee of a Public Trust, which has an annual income exceeding Rs.5,000 in the case of a trust for a Public religious purpose, and Rs.10,000 in other cases shall be in the form of Schedule VII-A hereto.

16B. Deleted.

17. Maintenance of accounts under section 32.--

(1) Every trustee of a public trust shall keep regular accounts of all receipts and moveable and immovable property and of all encumbrances created on the trust property and of all payments and alienations made on

behalf of the public trust of which he is in the trustee. The accounts shall contain all such particulars as in the opinion of the Charity Commissioner will facilitate preparation of the balance sheet and income and expenditure account in the form of Schedules VIII and IX and the preparation of a statement of income chargeable to contribution in the form of Schedule IX-C hereto:

Provided that where the trustees of public trust are entitled to file statements in the form of Schedule IX-A and IX-B hereto, by virtue of any exemption granted under clause (b) of sub-section (4) of Section 33, the accounts may contain particulars which shall facilitate the preparation of statements in the aforesaid form of Schedules IX-A and IX-B.

(2) Deleted.

18. Certificate for facilitating audit.--

For the purpose of audit under sub-section (2) or sub-section (4) of Section 33, the Charity Commissioner, the Deputy or Assistant Charity Commissioner may either of his own motion or at the request of the auditor—

- (1) require the production before the auditor, of any book, deed, account, voucher or other document or record necessary for the proper conduct of the audit;
- (2) require the trustee or any person having the custody or control of, or accountable for, any such books, deed, account, voucher or other document or record to appear in person before the auditor;
- (3) require the trustee or any such person to give the auditor such information as may be necessary for the aforesaid purpose;
- (4) require the trustee or any person having the custody or control of, or accountable for, any moveable property belonging to the trust to

produce such property for the inspection of the auditor or to give the auditor such information as may be necessary regarding the same.

19. Contents of auditor's report.--

(1) The report of an auditor relating to accounts audited under sub-section (2) of section 33, shall contain the following particulars: -

- a) whether accounts are maintained regularly and in accordance with the provisions of the Act and the rules;
- b) whether receipts and disbursements, are properly and correctly shown in the accounts;
- c) whether the cash balance and vouchers in the custody of the manager or trustee on the date of the audit were in agreement with the accounts;
- d) whether all books, deeds, accounts, vouchers or other documents or records required by the auditor were produced before him;
- e) whether a register of moveable or immovable properties is properly maintained, the changes therein are communicated from time to time to the regional office, and the defects and inaccuracies mentioned in the previous audit report have been duly complied with;
- f) whether the manager or trustee or any other person required by the auditor to appear before him did so and furnished the necessary information required by him;
- g) whether any property or funds of the trust were applied for any object or purpose other than the object or purpose of the trust;
- h) the amounts of the outstandings for more than one year and the amounts written off, if any;
- i) whether tenders were invited for repairs or construction involving expenditure exceeding Rs.5,000;

- j) whether any money of the public trust has been invested contrary to the provisions of section 35;
- k) alienations, if any, of the immovable property contrary to the provisions of section 36 which have come to the notice of the auditor;
- l) any special matter the auditor may think fit or necessary to bring to the notice of the Deputy or Assistant Charity Commissioner;
- m) all cases of irregular, illegal or improper expenditure or failure or omission to recover moneys or other property belonging to the public trust or of loss, or waste of money or other property thereof, and whether such expenditure, failure, omission, loss or waste was caused in consequence of breach of trust or mis-application or any other misconduct on the part of the trustee or any other person while in the management of the trust;
- n) whether the budget has been filed in the form provided by rule 16A.

(2) The balance sheet and income and expenditure account require under sub-section (1) of section 34 to be prepared by the auditor or any person authorized in this behalf under sub-section (2) of section 33 and forwarded by him to the Deputy or Assistant Charity Commissioner, shall be in the form of Schedule VIII and IX respectively.

(3) The auditor shall, having regard to the provisions of the instrument of the trust by which the trust is governed, include also in his report the following particulars namely:

- (a) whether the maximum and minimum number of the trustees is maintained;
- (b) whether the meetings are held regularly as provided in such instrument;

- (c) whether the minute book of the proceedings of the meeting is maintained;
- (d) whether any of the trustees has any interest in the investment of the trust;
- (e) whether any of the trustees is a debtor or creditor of the trust;
- (f) whether the irregularities pointed out by the auditors in the accounts of the previous year have been duly complied with by the trustees during the period of audit.

20. Fees for special audit.--

(1) The fee for special audit under sub-section (4) of section 33 shall be fixed by the Charity Commissioner according to the circumstances of each case:

Provided that in no case shall such fee exceed one per centum of the gross annual income of the public trust or be less than Rs.50.

Explanation.- For the purposes of this sub-rule the gross annual income shall include gross income from all sources in a year, excluding donations given or offerings made with a specific direction that they should form part of the corpus of the public trust.

(2) Before a special audit is directed under sub-section (4) of section 33, the Charity Commissioner may require the trustee of the public trust concerned or the person moving the Charity Commissioner for such special audit to deposit such amount as would in the opinion of the Charity Commissioner be sufficient to meet the cost thereof.

(3) The Charity Commissioner, after completion of the special audit, may direct the whole or any part of the cost thereof, to be met from the funds

and property of the public trust or out of the Public Trusts Administration Fund or be borne by the person moving the Charity Commissioner for such special audit.

21. Time for audit and submission of the audit report, etc. under section 34.--

(1) Unless exempted under clause (b) of sub-section (4) of section 33 from requiring the accounts to be audited, the trustee shall get the accounts audited within six months of the date of balancing the accounts under sub-section (1) of section 33, and the auditor shall forward a copy of the balance-sheet and the income and expenditure account along with his audit report to the Deputy or Assistant Charity Commissioner within a fortnight of the audit.

The Deputy or Assistant Charity Commissioner may, however, for sufficient reason, grant extension of time.

(1A) Where any trustee are entitle to file statements of accounts in the form of Schedules IX-A and IX-B hereto by virtue of any exemption granted under clause (b) of sub-section (4) of section 33, they shall file such statements with the Deputy or Assistant Charity Commissioner within a period of three months from the date of balancing the accounts.

(1B) Where any trustees are exempted from filing any such statements of accounts under the provision of section 33 referred to in the last preceding sub-rule, they shall file an affidavit as to the extent of their income with the Deputy Charity Commissioner or Assistant Charity Commissioner of the Region, within a period of three months from the date of balancing the accounts.

(2) In every Public Trusts Registration Office or Joint Public Trusts Registration Office there shall be maintained a register of such audit reports received under sub-rule (1) in the form of Schedules X hereto.

22. Inspection of entries in the Public Trusts Register and other documents.--

(1) Subject to the conditions and on payment of the fees hereinafter specified, the Charity Commissioner, Deputy or Assistant Charity Commissioner shall, on application by any person having interest or permitted in this behalf by the Charity Commissioner, Deputy or Assistant Charity Commissioner, allow inspection of any entry or portion thereof, in the Register of Public Trusts or any statement, notice, intimation, account, audit report or any other document filed under the Act.-

(2) The application for inspection shall specify the particulars of the documents and contain such information as may be necessary for identifying the documents required for inspection.

(3) A fee at the rate of one rupee per day shall be charged for the inspection of each entry or portion thereof in the Register of Public Trusts or each statement, notice, intimation, account or audit note or other document filed under the Act;

Provided that the Charity Commissioner, Deputy or Assistant Charity Commissioner may in his discretion, by an order in writing allow, in fit cases, inspection of any number of such entries and documents on payment of such smaller fee as he may deem proper;

Provided further that the minimum fee which the Charity Commissioner, Deputy or Assistant Charity Commissioner shall charge, shall be a fee payable at the rate of one rupee for every day on which the inspection is made.

(4) Such inspection shall be allowed during office-hours only, subject to such supervision as the Charity Commissioner, Deputy or Assistant Charity Commissioner may in each case direct.

22A. Inspection of certain documents of trust of persons having interest.-

In any investigation or inquiry into the affairs of any public trust, the officer making such investigation or holding inquiry not below the rank of Assistant Charity Commissioner on an application by any person having interest may direct the trustees of such trust to give inspection to such person having interest or any person duly authorized by him in this behalf of the books of accounts, minute books, other papers and documents of the trust in connection with its administration as may be necessary for the purpose of such investigation or inquiry on such terms as to costs as such officer may deem fit, and also to allow him to take out at his own cost notes or copies of such documents.

23. Grant of copies of entries in the Public Trust Register and other documents.--

(1) On payment of the fees specified hereinafter the Charity Commissioner or Deputy or Assistant Charity Commissioner or an officer authorized by any of them in this behalf shall, on application by any person having interest or any other person permitted by the Charity Commissioner or the Deputy or Assistant Charity Commissioner or an officer authorized by any of them in this behalf furnish him with copies certified if required under his hand of:

- (a) any entry or portion thereof, in the Registration of Public Trust or any statement, notice, intimation, account, audit report or any other document filed under the Act;

- (b) proceedings of any inquiry under the Act;
- (c) proceedings any appeal before the Charity Commissioner;
- (d) any certificate issued by the Charity Commissioner, Deputy or Assistant Charity Commissioner.

(2) The fees for the supply of copies shall be--

- (a) forty paise for every 100 words or fraction thereof;
- (b) in the case of certified copies, an additional (ten paise) for every 100 words or fraction thereof for comparing;
- (c) in the case of document in a tabular form, twice the above rates;
- (d) an additional fee of five paise for every sheet of fullscap paper used in preparing the copy or copies asked for ;

Provided that, where a copy of any document is required within a period of 24 hours but not exceeding 48 hours, there shall be paid an additional fee equal to 50 per cent of the fee prescribed for copying and comparing.

(3) On every copy of the proceedings of an inquiry furnished under this rule in which an appeal is provided under the Act, the officer granting the copy shall endorse, in legible letters, the date on which--

- (a) the copy was applied for,
- (b) the copy was ready for delivery,
- (c) the copy was, delivered, and
- (d) the endorsement was made.

24. Applications under section 36 for sanction of alienation.--

(1) Every application for sanction of an alienation shall contain information inter alia on the following points:-

- (i) whether the instrument of trust contains any directions as to alienation of immovable property;
- (ii) what is the necessity for proposed alienation;
- (iii) how the proposed alienation is in the interest of the public trust; and
- (iv) in the case of a proposed lease, the terms of the past leases, if any, such application shall be accompanied, as far as practicable, by a valuation report of an expert.

(2) The Charity Commissioner, before according or refusing sanction, may make such inquiry as he may deem necessary.

(3) In according sanction, the Charity Commissioner may impose such conditions or give such directions as he may deem fit.

24A. Maintenance of register under section 36B.--

A trustee of a public trust shall prepare and maintain a register of all moveable and immovable properties as required by section 36B in the form of Schedule X-AA hereto.

25. Manner of holding inquiry under section 39.--

If the Deputy or Assistant Charity Commissioner finds that there is a prima facie case for an inquiry under section 39, he shall--

- (a) fix a date for the inquiry and cause a notice to be served on the trustee or any other person concerned to appear on the date fixed; and
- (b) on the date fixed for such hearing, or any subsequent dates to which the hearing may be adjourned, allow them an opportunity to represent their case and to adduce evidence, and make any further inquiries as he may consider necessary; and
- (c) on completion of the inquiry, record his findings and the reasons therefor; and
- (d) if he holds that the trustee or any other person has been guilty of gross negligence, a breach of trust, misappropriation or misconduct which has resulted in loss to the public trust, report the matter to the Charity Commissioner and forward to him the papers of the inquiry.

25A. Maintenance of register by a medical centre under section 41 AA.--

The Governing body of a medical centre referred to in section 41 AA of the Act, shall, maintain a register for recording the category of a patient, in the form prescribed in Schedule X-AAA hereto.

25AA. Application under section 41D, 41E and 47.--

(1) Every application to the Charity Commissioner under sections 41D, 41E and 47 shall set out concisely the material facts about the public trust, and shall contain *inter alia* the following particulars, that is to say,--

- (a) the name, occupation and address of the applicant and opponent or respondent, as the case may be.
- (b) the name and description and number of the trust and its office address,

- (c) the name and addresses of the trustees and managers,
- (d) the object of the trusts,
- (e) the nature of applicant's interest in the trust,
- (f) the cause of action and the nature of relief sought for in the application,
- (g) the list of documents relied on.

(2) The application shall, as far as possible, be accompanied by a copy of all the relevant documents and a certified copy of entries in Schedules I in so far as they relate to the public trust.

(3) The application shall be verified in the manner provided in sub-rule (4) of rule 6.

(4) There shall be maintained in the office of the Charity Commissioner a register of applications made to the Charity Commissioner under sections 41D, 41E and 47 in the form of Schedule X-AB hereto.

26. Application under section 50A(1).--

(1) Every application to the Charity Commissioner under sub-section (1) of Section 50A shall set out concisely the material facts about the public trust and shall contain *inter alia* the following particulars, that is to say:-

- (a) names, occupation and addresses of the applicants,
- (b) name and description of the trust and its office address,
- (c) number of the trust on the Register of Public Trust,

- (d) approximate value of the trust properties,
- (e) approximate annual income of the trust,
- (f) names and addresses of the trustees and managers,
- (g) objects of the trust,
- (h) nature of the applicant's interest in the trust and
- (i) a statement explaining how the proposed scheme is necessary in the interest of the proper management or administration of the public trust.

(2) The application shall be accompanied by a draft scheme and shall be signed and verified in the manner provided in sub-rule (4) of rule 6.

(3) There shall be maintained in the office of the Charity Commissioner a register of such applications in the form of Schedule X-A hereto.

27. Application under section 51.—

(1) Every application to the Charity Commissioner by persons having interest for his consent to file a suit of the nature specified in section 50, shall set out concisely the material facts and contain *inter alia* the following particulars:-

- (a) Names, occupation and addresses of the applicants;
- (b) Name and description of the trust and its office address;
- (c) Number of the trust on the Register of Public Trusts, if registered;

- (d) Approximate value of the trust properties;
- (e) Approximate annual income of the trust;
- (f) Name and addresses of the trustees and managers;
- (g) Objects of the trust;
- (h) Nature of the applicant's interest in the trust;
- (i) Cause of action and substance of evidence in support of it and nature of the relief sought in the proposed suit;
- (j) List of documents relied on;
- (k) How the applicants propose to meet the costs of the suits;

(l) Particulars of applications, if any, under section 92 of the Civil Procedure code, 1908, (or as the case may be, under section 51 of the Act) in regard to the trust made earlier by the applicants or to their knowledge by other persons, and the result thereof.

(2) The application shall, as far as possible, be accompanied by copies of all the relevant documents.

(3) The Charity Commissioner, after hearing the applicants and making such inquiry (if any) if deems fit, may either summarily dismiss the application or grant the consent applied for ;

Provided that no such consent shall be given unless the trustees have been given an opportunity of being heard.

(4) Deleted

(5) In case the Charity Commissioner grants consent to the filing of the suit, his consent shall be endorsed on the Plaint before the same is filed in Court.

(6) There shall be maintained in the office of the Charity Commissioner a register of applications made to the Charity Commissioner under section 51 in the form of Schedule XI hereto.

28. (Deleted)

29. Register of bequests in favour of public trusts under section 53.—

The Deputy of Assistant Charity Commissioner for every region or sub-region shall maintain a register in the form of Schedule XII hereto, containing particulars of wills of which copies are forwarded to him under which bequests have been made in favour of public trust or where such bequests themselves create public trusts.

30. Dharamada accounts under section 54.—

(1) The account of dharamada shall be submitted to the Deputy or Assistant Charity Commissioner in the form of a statement in Schedule XIII hereto.

(2) The Deputy or Assistant Charity Commissioner may, for the purpose of verifying the correctness of the account, call for the books of account of the person charging or collecting the dharamada and, if he thinks it necessary, have them audited by any person whom he may appoint in this behalf and direct that the expenses of such audit be paid out of such account.

(3) If the dharmada is intended for a specific charitable or religious purpose and is not used or used only in part for such purpose the Deputy or Assistant Charity Commissioner may direct that the amount available shall be used for such charitable or religious purpose.

(4) If in any other case, it is necessary in the opinion of the Deputy or Assistant Charity Commissioner to obtain the direction of the court for the appropriation of the amount under section 55, he shall make a report to the Charity Commissioner and may, pending the decision of the court, direct that the amount shall be deposited in such manner as he thinks fit.

(5) A register of dharmada in his region or sub-region shall be maintained by the Deputy or Assistant Charity Commissioner in the form of Schedule XIV hereto.

31. Time of applying to the Court under section 55:-

The time for the trustees to apply to the Court for directions under section 55, shall be three months from the date of the receipt of the notice from the Charity Commissioner.

Provided that the Charity Commissioner may, in his discretion, allow a longer time or grant extension of time for the purpose.

31A. Conditions and restrictions subject to which Committee shall deal with properties of endowments:-

(1) A committee shall hold that properties of an endowment which is transferred to it under section 56 D for the objects of the endowment.

(2) A committee shall not sell, mortgage or exchange any immovable property vesting in the members of the committee or lease it out (in the case of agricultural land for a period exceeding ten years; and in any other case, for a period exceeding three years) or otherwise dispose it of unless such sale, mortgage, exchange, lease or disposal –

(a) is for the benefit of the endowment or other justifiable cause,

(b) is duly sanctioned by a resolution of the committee passed in that behalf and the description of the property and the reasons for sanctioning such disposal of property are stated in the resolution, and

(c) is made where necessary, with the previous sanction of the Charity Commissioner as required by section 36.

(3) Where an endowment consists of jewelry, or other movable property of a nonperishable nature exceeding one thousand rupees in value, the committee shall not sell, pledge or otherwise dispose it of without the previous approval of the Charity Commissioner.

31 B. Honorarium, fees and allowances to members of Committee.—

(1) The Chairman shall be paid an honorarium of Rs. 500 per month.

(2) The Treasurer and the other members of the committee (excluding the Chairman) shall be paid a sitting fee at the rate of Rs, 25/- per day for attending a meeting of the Committee.

(3) The Chairman, Treasurer and other members of the Committee shall be entitled to a travelling allowance at the rates prescribes in rule 1 of section 1, in Appendix XLII-A to the Bombay Civil Services Rules, 1959, for the journey performed by them to attend such meeting.

31-C. Meetings of Committee and procedure thereat --

(1) The first meeting of a committee shall be held on such date, time and place as may be fixed by the State Government (being a date which is within thirty days from the date on which the appointment of the committee is notified by the State Government)

(2) The committee shall, from time to time, hold its meetings at such intervals as it thinks fit; but three months shall not intervene between its last sitting of the first meeting or of the last meeting and the date appointed for its next meeting.

(3) The Chairman shall appoint the date, time and place of every ordinary meeting and shall, upon a written request signed by not less than two members and, within ten days from the receipt of such request, issue a notice calling a special meeting,

(4) Seven clear days' notice of an ordinary meeting and ten clear day's notice of a special meeting specifying the date, time and place at which such meeting shall be held, and the business to be transacted thereat shall be circulated to the members and pasted up at the office of the committee. Such notice shall, in the case of a special meeting, specify the motion or proposition mentioned in the written request made for such meeting.

(5) Every notice, summons or any paper which is required to be circulated, sent or given to members shall be deemed to have been duly circularised, given or sent, if a copy thereof is dispatched (such dispatch being made either by post or in such other manner as the committee may be regulations provide) to every member as registered in the office of the committee.

(6) If no meeting is held for a period of three months, any two members of the committee, if the committee consists of five members, and any three members, if the committee consists of more than five members, may require the chairman to call a meeting of the committee. The chairman, on receipt of such requisition, shall issue a notice of the meeting within ten days of the receipt thereof. If the chairman fails to issue a notice as aforesaid, it shall be lawful for the said two or three members, as the case may be, to call upon the Secretary to issue a notice of the meeting.

(7) The number of members whose presence shall constitute a quorum shall be four if the committee consists of seven members, and three, if the committee consists of less than seven members, including the chairman in either case.

(7A) No business shall be transacted any meeting unless there is a quorum present, if there be no quorum, the meeting shall be adjourned to a subsequent date of which ten days' notice shall be given to all the members. No quorum shall be necessary at such adjourned meeting.

(8) Every meeting shall be presided over by the chairman of the committee, or in his absence, by such one of the members present as may be chosen by the meeting to be the chairman for the occasion.

(9) All questions shall be decided by a majority of the votes of the members present and voting, the presiding authority having a second or casting vote in all cases of equality of votes.

(10) Notwithstanding anything contained in sub-rule (4), the chairman may himself place or allow any member to place before the committee any matter not included in the agenda, if the chairman is of the opinion that such

matter requires immediate consideration of the committee, and thereupon the committee shall consider such matter.

(11) Where the chairman is of the opinion that a decision is required to be taken urgently by the committee on any proposition, he shall cause the proposition in writing to be circulated to all the members of the committee for observations and votes of members. The decisions on any proposition so circulated shall be in accordance with the majority of votes recorded thereon; but every such decision shall be placed before the next meeting of the committee for its formal ratification.

(12) It shall be the duty of the Secretary to keep at the disposal of the members of the committee, all papers connected with the items of business shown on the agenda of any meeting.

(13) The minutes and proceedings of every meeting including decisions arrived at under sub-rule (9) shall be drawn up and recorded in writing by the Secretary in a book to be kept for the purpose, and the same shall be read out at the next meeting and confirmed under the signature of the chairman of that meeting. A copy of the said minutes shall be submitted for information to such authority or authorities as the State Government may specify in that behalf.

31-D. Terms and conditions of service of Secretary. -

(1) Appointment to the post of the Secretary shall be made--

(a) by promotion from amongst the Class III employees of the Charity Organization that is to say, the Office of the Charity Commissioner and the Public Trusts Registration Offices preference being given to persons with Legal qualifications, or

(b) by transfer of any officer from any Department of the State Government, or

(c) by nomination from amongst candidates, who

(i) unless already in the service of the Government of Maharashtra, are not more than 35 years of age :

Provided that the upper age-limit may be relaxed in the case of candidates having good qualifications or experience, and

(ii) holds at least a degree in Arts, Science, Commerce or Law of a recognized university, and

(iii) are either practicing lawyers of not less than two years standing or have at least five years' administrative experience in any responsible position in any Government office or local authority or in any commercial or industrial organization.

(2) A person appointed to the post by nomination shall be on probation for two years.

(3) A person appointed to the post either by promotion or by nomination shall be required to pass such examination in the regional language and in Hindi as may be prescribed by the State Government.

(4) The post of the Secretary shall be permanent and personable.

(5) The Secretary shall be the servant of the State Government and shall draw his pay, pension and allowances from the Consolidated Fund of the State. There shall be credited every year, out of the Management Fund to the Public Trusts Administration Fund, all the costs on account of the pay, pension, leave and allowances of the Secretary.

- (6) Leave and allowances payable to the Secretary shall be regulated by the Bombay Civil Service Rules, 1959. The chairman of the committee shall be competent to grant casual leave to the Secretary, Leave other than casual leave shall be granted by the Charity Commissioner on the recommendation of the committee which shall be recorded in the service book of the Secretary.
- (7) The Secretary shall be the Chief Executive Officer of the committee and shall be under the administrative control of the Charity Commissioner.
- (8) The Secretary shall reside at the headquarter of the committee.
- (9) The services of the Secretary shall be liable to be transferred from one committee to another.
- (10) The Secretary, if entrusted with the custody of cash, shall be required to furnish security of such amount as shall be determined by the committee.
- (11) Subject to the provisions of the Act and these rules, the Secretary shall perform such duties and exercise such powers as may be specified in the regulations made by the committee.

31-E. Terms and conditions of service of other officers and servants of committee.—

- (1) Save as otherwise provided in the Act or in these rules and subject to the regulations framed by the committee, the conditions of service, including leave and allowances of the officer other than Secretary are servants of the corresponding rank, and the powers conferred, in relation to Government servants on the heads of Departments by the said rules shall, in relation to such officers and servants of the committee, be exercised by the committee. If for the purposes of this rule, any question arises for determining

the rank of an officer or servant of a committee, the question shall be referred to the State Government through the Charity Commissioner and the decision of the State Government thereon shall be final.

(2) Subject to the approval of the State Government, the committee may, from time to time, determine the number of officers and servants to be appointed for the efficient performance of the duties and functions of the committee and their designations and qualifications for appointment.

Provided that no person shall be appointed as an Accountant unless he has passed an examination in Accountancy recognized by the State Government or possesses the Government Diploma in Accountancy or any other qualification declared to be equivalent thereto by the State Government.

(3) Except with the previous sanction of the State Government, no person who has been dismissed from the service of the Government or of any local authority shall be employed in the service of the committee.

(4) Any officer or servant of the committee who may be entrusted with the custody of cash shall be required to furnish security of such amount as shall be determined by the committee according to the circumstances of each case.

(5) All regulations pertaining to the grant of gratuities to the officers and servants of the committee and the creation and management of contributory provident fund for their benefit shall, subject to the provisions of section 56S, be approved by the committee at a special meeting convened for the purpose by a

resolution of not less than two-thirds of the members present and voting at such meeting.

31-F. Inspection of proceedings or other records in custody of committee and supplying copies thereof.--

(1) Upon an application in writing by or on behalf of any person interested in the endowments vested in, or transferred for management to, any committee, the Secretary may permit the person so interested or his agent to inspect proceedings and other records of the committee and copies thereof may be supplied to him on payment of such reasonable fees and subject to such conditions as may be determined by the committee.

(2) All copies issued under sub-rule (1) shall be certified by the secretary in the manner provided in section 76 of the Indian Evidence Act, 1872.

31-G. Custody of Management Fund.—

(1) All moneys received for being placed to the credit of the Management Fund shall be deposited with the Reserve Bank of India, the State Bank of India or such other Scheduled Bank as may be approved by the State government.

(2) All Government securities vesting in the committee and coming into its possession shall be lodged by the Secretary as soon as practicable, in the Reserve Bank of India or the State Bank of India or any other Bank approved by the State Government in this behalf for safe custody, except in any case in which it may be necessary to retain them temporarily for any purpose.

31-H. Investment of and disbursement and payment from Management Fund.--

(1) All surplus moneys in excess of the amount required for payment of the amounts determined by the State Government on account of honorarium, fees and allowances of the chairman, treasurer and other members of the committee and on account of salaries and allowances and other sums payable to the Secretary, officers and servants of the committee and such additional amount as may, with the approval of the State Government, be necessary for the payment of charges for expenses incidental to the management of endowments and for other purposes of Chapter VII-A of the Act, shall be invested --

- (i) in public securities,
- (ii) in fixed deposits in the State Bank of India and other Schedule Bank,
- (iii) in the purchase of immovable properties approved by the State Government, or in the construction of buildings on lands so purchased or otherwise acquired, subject to conditions specified in rules 31- I and 31 - J.

(2) All moneys, until they are invested as aforesaid, shall be deposited with the State Bank of India in the joint names of two or more members of the committee.

(3) The aforesaid account shall be operated jointly by any two or more members of the committee authorised in this behalf under the resolution of the committee.

(4) The Secretary shall not at any time retain in his hands a cash balance of more than Rs. 500. Any excess above that sum shall forthwith be deposited in the Bank.

31-I. Insurance of buildings.—

All buildings constructed, purchased or otherwise acquired by a committee for the purposes of the endowment shall be insured with an insurance concern approved by the State Government.

31-J. Certain charges to be compulsory.—

Where any immovable property is purchased or otherwise acquired or any building are constructed as aforesaid, such sum as the State Government may direct shall be set apart to meet the following charges and expenses in respect of such immovable property, namely :-

- (i) land revenue payable to Government.
- (ii) taxes, rates and cesses payable to Government or to any local authority,
- (iii) insurance charges,
- (iv) repairs,
- (v) cost of management,
- (vi) Sinking or depreciation fund.

31-K. Audit of accounts of Management Fund.--

(1) The accounts of the Management Fund shall be audited and the securities held by the committee shall be verified once in six months and at any other time if the Government so directs, by an auditor of Local Fund Accounts within the meaning of the Bombay Local Fund Audit Act, 1930 or by some officer or officers deputed by the Accountant General, Maharashtra State.

(2) A report after examining the accounts or securities shall specify all cases of irregular, illegal or improper expenditure or failure to recover money or other property caused by neglect or misconduct and any other matter which is

considered necessary for inclusion in the report and shall be forwarded to the State Government.

(3) The cost of, and incidental to, the audit and examination of the accounts of the Management Fund shall be met out of the additional amounts mentioned in sub-rule (1) of rule 31-H.

32. Contribution to the Public Trusts Administration Fund--

(1) Every public trust (other than a public trust exempted under section 58) shall pay to the Public Trusts Administration Fund out of its property or funds a contribution at such rate or rates as may be notified by an order made by the State Government, from time to time, under section 58 and published in the Official Gazette.

(2) The contribution shall be assessed on the basis of the gross annual income, or collection or receipt, as the case may be, during the previous twelve months ending with the thirty-first day of March or such other day in regard to a particular trust or class of trusts as may have been fixed by the Charity Commissioner in this behalf under sub-section (1) of section 33:

Provided that:-

- (i) where the contribution is not payable for a part or parts of a year and is payable for the remaining part or parts of the same year as per balancing date and accounting year allowed to the trust, the contribution shall be levied on the aforesaid income, collection or receipt, as the case may be, in proportion to the period for which the contribution is leviable;
- (ii) where the contribution is payable at different rates for different parts of a year, the same shall be levied at such different rates on the aforesaid income, collection or receipt, as the case may be, for the proportionate period;

- (iii) while assessing contribution for a period which is a part of an accounting year of the trust, the assessable amount for that part of the year shall be determined by calculating average amount for the part on the basis of the aforesaid income, collection or receipt, as the case may be.

(3) In calculating the gross annual income of a public trust or where the public trust is a dharmada, its gross annual collection or receipt, for the purpose of assessing the contribution, the following deductions shall be allowed, namely:--

- (i) in the case of a public trust having advancement and propogation of secular education as one of its purposes, the portion of the gross income or collection or receipt spent for that purpose;
- (ii) in the case of a public trust having medical relief as one of its purposes, the portion of the gross income or collection or receipt spent for that purpose;
- (iii) in the case of a public trust having veterinary treatment of animals as one of its purposes, the portion of the gross income or collection or receipt spent for that purpose;
- (iv) donations received from other public trusts and dharmadas;
- (v) expenditure incurred from donations for relief of distress caused by scarcity, drought, flood, fire or other natural calamity;
- (vi) grants received from Government or local authorities;
- (vii) allowance for annual repairs at 10 per cent of the estimated gross annual rent of buildings belonging to the trust which are not rented out and yield no income.

Explanation.- The estimated gross annual rent shall mean the rateable value of the buildings or, where such rateable value is not fixed by a local

authority, the gross annual rent as estimated by the Deputy or Assistant Charity Commissioner;

- (viii) interest on Depreciation Fund, if any, for replacement of buildings;
- (ix) interest on Sinking Fund, if any, for repayment of loans;
- (x) out of income or receipt from lands used for agricultural purposes,--
 - (a) land revenue and local fund cess, if payable by the trust;
 - (b) rent payable to the superior landlord, if lands are held on lease by the trust,
 - (c) the cost of production (which shall not include the capital cost of irrigation and other works or the cost of maintenance of or repairs to such works, in excess of a limit fixed by the Deputy or Assistant Charity Commissioner with reference to past expenditure on such maintenance or repairs)-- if lands are cultivated by the trust.

Explanation.- Receipts from lands used for agricultural purposes when such receipts are in kind shall be valued at their market value at the time of receipt;

- (xi) out of income or receipt from lands (including buildings) used for non-agricultural purposes--
 - (a) assessment, cesses and other Government dues and municipal and other taxes, payable by the trust;
 - (b) ground rent payable to the superior landlord;
 - (c) insurance premia, if any, in respect of buildings;
 - (d) allowance for annual repairs at 10 per cent of the gross rent of buildings;
 - (e) allowance for cost of collection at 4 per cent of the gross rent of buildings let out;

- (xii) out of income or receipt from securities, stocks, shares and debenture allowance of one per cent for cost of collection.

(4) Nothing contained in sub-rule (3) shall entitle any person to claim deduction for the purpose of computing gross income of a public trust in respect of any amount on which deduction has been claimed already in one form or another.

(5) Every auditor, auditing the accounts of a public trust under sub-section (2) of section 33, shall annex to the copy of the balance-sheet and income and expenditure account required to be forwarded to the Deputy or Assistant Charity Commissioner under sub-section (1) of section 34 a statement of the income of the trust liable to contribution in the form of Schedule IX-C hereto.

Provided that, the auditor shall forward a copy of the statement of income of the trust liable to contribution in the form of IX-C to the concerned trustee for enabling the said trust to remit to the Deputy or Assistant Charity Commissioner the contribution payable in advance according to the provisions of sub-section (5) of section 58.

(6) As soon as the statement of the income of the trust liable to contribution is received from the Auditor under sub-rule (5), every trustee of the public trust liable to pay contribution, shall, while filing a copy of the balance-sheet and income and expenditure account under sub-section (1A) of section 34, pay in advance the whole amount of the annual contribution of the public trust computed at the rate fixed under sub-section (1) of section 58, and as shown in the Schedule IX-C, to the Deputy or Assistant Charity Commissioner of

the region or sub-region or to the Charity Commissioner if the Charity Commissioner required him to do so.

(6A) When the contribution payable by a public trust has been assessed and the amount of contribution is adjusted the amount received in advance under sub-rule (6), the Deputy or Assistant Charity Commissioner shall communicate by letter to the concerned trustee immediately, the position of adjustment as to whether the amount of contribution received in advance is less or equal or more than the actual assessed amount of contribution.

(6B) When the contribution payable by the public trust has been assessed and the nature of adjustment is communicated to the concerned trustee and after such assessment if it is found that the amount received under sub-rule (6) is more than the amount assessed, the Deputy or Assistant Charity Commissioner shall, subject to the provisions of sub-rule (8) of rule 33, adjust the said excess amount against the amount of advance payment of contribution to be received during the next financial year.

(7) While issuing a notice of contribution, the amount of demand shall be rounded to the nearest full rupee.

33. Notice of demand in respect of contribution.--

(1) When the contribution payable by a public trust has been assessed, and the amount of advance contribution received under sub-rule (6A) of rule 32 is found to be less than the amount of contribution so assessed or where no advance payment of the contribution is made, then the Deputy or Assistant Charity Commissioner shall issue a notice of demand in form of Schedule XV, or, where the public trust is a dharmada, in the form of Schedule XV-A hereto, to the

trustee or manager or the person charging or collecting the dharmada as the case may be, specifying the balance amount of contribution payable or if no advance payment is made, the amount payable and the date by which the payment shall be made.

(2) A trustee or manager objecting to the amount of contribution assessed may file an objection before the Deputy or Assistant Charity Commissioner stating the grounds of his objection within 30 days of the receipt of the notice of demand. No objection shall be entertained unless the amount of demand as required by the notice has been first deposited:

Provided that, such objection may be entertained after the expiry of such period if the Deputy or Assistant Charity Commissioner is satisfied that there are reasonable grounds for delay in not filing the objection in time.

(3) The Deputy or Assistant Charity Commissioner on receipt of the objection shall cause it to be entered in a register to be kept for the purpose in the form of Schedule XVI hereto, and shall after hearing the trustees or manager for reasons to be recorded in writing, pass such orders as he may deem fit, subject to the order of the charity Commissioner shall be final.

(4) A trustee or manager may apply to the charity Commissioner within 30 days from the date of order passed by the Deputy or Assistant Charity Commissioner under sub-rule (3) for revising such order, the application shall be made in the form or a memorandum signed by the applicant or his pleader. The memorandum shall set forth concisely and under distinct heads the grounds of objections to the order passed by the Deputy or Assistant Charity Commissioner, as the case may be, without any argument or narration and such grounds shall be numbered consecutively.

(5) On receipt of an application under sub-rule (4), the charity commissioner may, after hearing the applicant or his pleader, either confirm or modify the order passed by the Deputy or Assistant Charity Commissioner under sub-rule (3).

(6) The Charity Commissioner may also *suo motu* revise a notice of demand issued by the Deputy or Assistant Charity Commissioner under sub-rule (1) or an order passed by either of those officers under sub-rule (3), or order passed by any of them holding that the trust is not liable to pay contribution.

Provided that, the Charity Commissioner shall not pass any order either assessing or enhancing the amount of contribution assessed by the Deputy or Assistant Charity Commissioner without giving the trustee or the manager an opportunity of being heard.

(7) If the Deputy or Assistant Charity Commissioner has reasons to believe at any time after the notice of demand is issued under sub-rule (1), that the amount specified in the notice of demand is under-assessed on any ground whatsoever, then the Deputy or Assistant Charity Commissioner shall cause to be issued a supplementary notice of demand and accordingly, the other provisions of this rule shall apply as if the notice were a notice issued under sub-rule (1)

(8) Notwithstanding anything contained in these rules, in the case of public trusts falling in the class of trusts exempted from payment of contribution under sub-section (2) of section 58 or in the class of public trusts of which contribution is remitted under sub-section (3) of section 58 or in respect of which deductions have not been allowed in calculating the gross annual income as per sub-rule (3) of rule 32 or have been allowed in part only, or in respect of which the

amount of excess contribution cannot be adjusted against contribution payable during the next financial year as provided in sub-rule (6B) of rule 32, or that due to inaccuracy in arithmetical calculations or clerical omissions, refund is due to a public trust, where the Charity Commissioner, Deputy or Assistant Charity Commissioner is satisfied that such public trust has paid contribution, he may *suo motu* or on application, direct that the amount of such contribution or, as the case may be, excess contribution, shall be refunded to such public trust and shall record reasons therefor.

34. Additional powers of Deputy and Assistant Charity Commissioners.--

In addition to the duties and powers enumerated in section 68 and provided in these rules, the Deputy Charity Commissioner and Assistant Charity Commissioner may exercise also the following powers, that is to say :-

- (1) the power to transfer any proceeding or enquiry from one Inspector to another irrespective of his normal jurisdictions
- (2) the power to direct any Inspector or any member of the subordinate staff to serve processes in urgent cases where notice is to be served immediately or notice is to be affixed on any property under rule 7A.

35. Deleted.

36. Additional duties and powers of the Charity Commissioner.-

In addition to the duties and powers enumerated in section 69, the Charity Commissioner shall perform duties and exercise powers set down below:-

- (i) the power to call for any record or proceedings from any Joint, Deputy or Assistant Charity Commissioner,
- (ii) the power to stay any proceedings before the Joint, Deputy or Assistant Charity Commissioner or the execution of any

- order passed by any Joint, Deputy or Assistant Charity Commissioner;
- (iii) the power at any stage to transfer any proceedings pending before any Joint, Deputy or Assistant Charity Commissioner to another Joint, Deputy or Assistant Charity Commissioner, as the case may be, or take over himself for disposal ;
 - (iv) the power to transfer a public trust registered in one Public Trusts Registration Office or Joint Public Trusts Registration Office to the register of another Public Trusts Registration Office or Joint Public Trust Registration Office;
 - (v) to transfer any inquiry from one Inspector to another to assign any inquiry to any Inspector.

37. Manner of filing appeal under section 70 and application under section 70 A.--

(1) Every appeal to the Charity Commissioner against the finding or order of a Deputy or Assistant Charity Commissioner and an application under section 70 A shall be preferred in the form of a memorandum signed by the appellant, or, as the case may be, the applicant or his pleader. The memorandum shall set forth, concisely and under distinct heads, the grounds of objections to the findings or order appealed from without any argument or narration and such grounds shall be numbered consecutively.

(2) Such appeal or application shall be sent to the Charity Commissioner either by registered post or presented in person or by a pleader and shall be accompanied--

- (a) by a certified copy of the finding or order appealed from or against which an application under section 70A is made; and

(b) by as many copies of the memorandum of appeal or application as are required for service upon the parties whose rights or interest will be affected by an order that may be passed in such appeal or application.

(3) Deleted.

(4) The Charity Commissioner, after the appeal has been heard, shall pronounce his decision either at once or on some future day of which due notice shall be given to the parties or their pleaders. In the case of an application, the Charity Commissioner shall deal with it as provided in section 70 A.

(5) Deleted.

(6) There shall be maintained in the Office of the Charity Commissioner a register of appeals filed to the Charity Commissioner under section 70 in the form the of Schedule XVII hereto.

38. Manner of filing appeal under section 71.--

(1) Every appeal to the Bombay Revenue Tribunal under sub-section (2) of section 51 against the decision of the Charity Commissioner refusing consent to the institution of a suit shall be preferred in the form of a memorandum signed by the appellant or his pleader and accompanied by a certified copy of the decision of the Charity Commissioner appealed from.

(2) The memorandum shall set forth, concisely and under distinct heads, the grounds of objections to the decision appealed from without any argument or narration, and such grounds shall be numbered consecutively.

(3) The appeal shall be addressed to the Secretary to the Bombay Revenue Tribunal and sent to him by post or presented in person or through a pleader.

(4) Deleted.

39. Forms of requisition to the Collector under section 77.--

Requisition to the Collector for the recovery of any sum due under section 18, 20, 41, 48, 79A, 79C or 79CC or under any rule and recoverable as an arrear of land revenue shall, in the case of a sum recoverable from a public trust be in Form A, and in the case of sum for which any trustee or other person is personally liable be in Form B of Schedule XVIII hereto.

39 A. Form of notice under section 79 AA.—

The notice under section 79 AA shall be in the form of Schedule XVIII-A.

40 to 61. Deleted.

62. Custody of the Public Trusts Administration Fund.—

The Charity Commissioner shall deposit with the Reserve Bank of India, the State Bank of India or such other scheduled bank as may be approved by the State Government all money received by him for being credited to the Public Trusts Administration Fund.

63. Surplus money to be invested and disbursed.--

All surplus money in excess of the amount required for payment of the amount determined by the State Government under section 6B on account of the pay, pension, leave and other allowance of the Charity Commissioner, the

Joint, Deputy or Assistant Charity Commissioners, the Director and Assistant Directors of Accounts, the Inspectors and other subordinate officers and servants appointed under the Act and such additional amount as may, with the approval of the State Government, be necessary for the payment of charges for expenses incidental to the regulation of public trusts and for other purposes of the Act, shall be invested and disbursed as provided in rule 64:

Provided that the monies likely to be required for payments referred to in this rule, if such payments are not to be made immediately may also be invested by the Charity Commissioner in his discretion in call or fixed deposits in the State Bank of India or other scheduled banks.

64. Investment of surplus money.--

Such amount as may be approved by the State Government shall be invested—

- (i) in public securities,
- (ii) in fixed deposits in the State Bank of India and other scheduled bank,
- (iii) in the purchase of immovable properties approved by the State Government and in construction of buildings on lands so purchased or otherwise acquired for the purpose of housing the offices, or for providing residential accommodation to the officers and servants appointed for the administration of this Act.

65. Buildings to be insured.--

All buildings constructed, purchased or otherwise acquires shall be insured with an insurance concern approved by the State Government.

66. Compulsory provision for certain charges.--

Where immovable property is purchased or otherwise acquired or buildings are constructed under rule 64, such sum as the State Government may direct shall be set apart to meet the following charges and expenses, namely: -

- (1) land revenue payable to Government,
- (2) taxes, rates and cesses payable to Government or to any local authority,
- (3) insurance charges,
- (4) repairs,
- (5) cost of management,
- (6) sinking or depreciation fund.

67. Deleted.
