

The Companies (Public Trustee) Rules, 1973

Note :- The provisions of section 153A have become redundant on and after the commencement of the Companies (Amendment) Act, 2000.

In exercise of the powers conferred by section 642, read with section 153A of the Companies Act, 1956 (1 of 1956), and of all other powers enabling it in this behalf, the Central Government hereby makes the following rules regulating the method of appointment, powers, functions, conditions of service and control of the public trustee, namely :-

1. Short title and commencement.-

- (1) These rules may be called **The Companies (Public Trustee) Rules, 1973**.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.-

In these rules, unless the context otherwise requires,-

- (a) "Act" means the Companies Act, 1956 (1 of 1956) ;
- (b) "public trustee" means the public trustee appointed under section 153A of the Act ;
- (c) "Secretary" means the Secretary to the Government of India in the Department of Company Affairs.

3. Method of appointment to the post of public trustee. -

Appointment to the post of the public trustee shall be made by deputation of a State Judicial officer of the rank of District and Sessions Judge or an officer from the Central or State Government eligible for appointment as Joint Secretary to the Government of India or to any other equivalent post in that Government and in consultation with the Union Public Service Commission, wherever necessary. For eligibility for appointment to the post of the public trustee, the officer shall have experience and knowledge of law or accounts or income-tax or industrial development or working of the corporate sector or administration.

4. Remuneration of the Public Trustee. -

- (1) The post of the public trustee shall carry the scale of pay of Rs. 2500-125/2-2750.
- (2) Subject to the provisions of sub-rule (1) the pay of a person appointed as public trustee shall be fixed according to the Fundamental Rules :

Provided that if such person is, at the time of his appointment in receipt of a

pension (other than a disability or wound pension) in respect of any previous service under the Government, his salary as public trustee shall be reduced -

(a) by the amount of that pension, and

(b) if he has, before such appointment, received in lieu of a portion of a pension due to him in respect of such previous service the commuted value thereof, by the amount of that portion of the pension.

5. Term of office of the Public Trustee. -

The public trustee shall hold office for a term of six years from the date on which he enters upon his office or until the date of his super-annuation in the post in his parent office in the Central or State Government whichever is earlier.

6. Resignation by the Public Trustee. -

The public trustee may resign his office by giving notice in writing for a period of not less than three months to the Secretary and, on such resignation being accepted by the Secretary, the public trustee shall be deemed to have vacated his office.

7. Termination of service of the Public Trustee. -

The Central Government may, at any time, terminate the appointment of a public trustee who shall in that case revert to his parent service.

8. Retirement benefits. -

The period of service as a public trustee by a person shall count for pension under the rules applicable to him in his parent service immediately before his appointment as a public trustee.

9. Other conditions of service. -

The conditions of service of a public trustee in respect of matters for which no provision is made in these rules, shall be the same, as may, for the time being, be applicable to Central Government officers of corresponding status and drawing the same pay.

10. Control of the Public trustee. -

(1) The public trustee shall be under the administrative control of the Central Government and that Government may, in the exercise of such control, give from time to time, such directions, not inconsistent with the provisions of the Act, to the public trustee as it may deem fit and the public trustee shall comply with such directions.

(2) The public trustee shall submit a report to the Central Government of his activities in respect of such financial year beginning on the 1st of April, and ending with the 31st of March following and such report shall be submitted within six months from the close of that year :

Provided that the Central Government may, if it considers it necessary to do so, call for any periodical or special reports from the public trustee relating to any matter touching his offices or activities.

11. Procedure for exercise of the voting rights by the Public Trustee in certain

cases. -

- (1) Before appointing any proxy under sub-section (2) of section 187B of the Act, the public trustee shall take into consideration whether the appointment of such proxy will serve the best interests of the beneficiaries of the trust.
- (2) Where any communication is received by the public trustee from a trustee of a trust to the effect that the public trustee should not abstain from exercising the rights and powers conferred on him by section 187B of the Act, the public trustee shall consider the views of such trustees and consider, before coming to a decision on the point, whether the interests of the beneficiaries of the trust are or are not likely to be adversely affected by such abstention.

12. Powers of the Public Trustee to inspect books or call for records. -

- (1) The public trustee shall, whenever he thinks it necessary or expedient to do so, inspect all books and papers which a member is entitled to receive and inspect under the Act.
- (2) The public trustee may call for any information relating to any company or its directors from the Company Law Board which he considers necessary for the discharge of his duties. The Company Law Board shall, if such information is available with it, furnish the same to the public trustee, and if such information is not available, it shall collect the same from the concerned company and pass it on to him.

13. Travelling and other allowances. -

The public trustee shall receive travelling and other allowances for journeys connected with any meeting of a company in accordance with such rules and subject to such conditions as are applicable to Grade I officers of the Central Government.