THE PREVENTION OF MONEY-LAUNDERING (THE FORMS AND THE MANNER OF FORWARDING A COPY OF ORDER OF ARREST OF A PERSON ALONG WITH THE MATERIAL TO THE ADJUDICATING AUTHORITY AND ITS PERIOD OF RETENTION) RULES, 2005[1]

In exercise of the powers conferred by sub-section (1) read with clause (a), clause (p) of sub-section (2) of section 73 of the Prevention of Money-laundering Act, 2002 (15 of 2003), the Central Government hereby makes the following rules relating to the Forms, the manner of forwarding a copy of the order of arrest of a person along with the material to the Adjudicating Authority and the period of retention thereof by the Adjudicating Authority, namely:—

1. Short title and commencement.—(1) These rules may be called the Prevention of Money-laundering (the Forms and the Manner of Forwarding a Copy of Order of Arrest of a Person along with the Material to the Adjudicating Authority and its Period of Retention) Rules, 2005.

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

2. Definitions.—(1) In these rules, unless the context otherwise requires,—

(a) "Act" means the Prevention of Money-laundering Act, 2002 (15 of 2003),

(b) "Adjudicating Authority" means an Adjudicating Authority appointed under sub-section (1) of section 6 of the Act;

(c) "Arresting Officer" means the Director, Deputy Director, Assistant Director or any other officer, authorized in this behalf by the Central Government by general or special order to exercise the power to arrest any person under sub-section (1) of section 19 of the Act;

(d) "designated officer" means the officer designated by the Adjudicating Authority for the purpose of sub-rule (1) of rule 4;

(e) "Director" or "Deputy Director" or "Assistant Director" means a Director or a Deputy Director or an Assistant Director, as the case may be, appointed under sub-section (1) of section 49 of the Act;

(f) "Form" means forms appended to these rules;

(g) "material" means any information or material in the possession of the Director or Deputy Director or Assistant Director or any authorised officer, as the case may be, on the basis of which he has recorded reasons under sub-section (1) of section 19 of the Act;

(h) "order" means the order of arrest of a person and includes the grounds for such arrest under sub-section (1) of section 19 of the Act;

(i) "section" means a section of the Act.

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1. *Vide* G.S.R. 446 (E), dated 1st July, 2005, published in the Gazette of India, Extra., Pt. II, Sec. 3(i), dated 1st July, 2005.

2. Came into force on 1-7-2005.

(2) All other words and expressions used and not defined in these rules but defined in the Act shall have the meaning respectively assigned to them in the Act.

3. Manner of forwarding a copy of the order of arrest and the material to the Adjudicating Authority.—(1) The Arresting Officer shall prepare an index of the copy of the order and the material in possession and sign each page of such index of the copy of the order and the material and shall also write a letter while forwarding such index, order and the material to the Adjudicating Authority in a sealed envelope.

(2) The Arresting Officer shall place an acknowledgement slip in Form I appended to these rules inside the envelope before sealing it.

(3) The Arresting Officer shall indicate a reference number and date of despatch on the sealed envelope.

(4) The sealed envelope shall be marked "Confidential" and "To be opened by the addressee only", the complete address of the Adjudicating Authority including his name shall be mentioned on the sealed envelope with the official seal.

(5) The Arresting Officer shall place the sealed envelope inside an outer envelope, along with an acknowledgement slip in Form II appended to these rules.

(6) The outer envelope shall be sealed and complete address of the Adjudicating Authority shall be mentioned on the sealed outer envelope.

(7) The Arresting Officer shall maintain registers and other records such as acknowledgement slip register, dak register for the purposes of this rule and shall ensure that necessary entries are made in the register immediately as soon the copy of the order and the material are forwarded to the Adjudicating Authority.

4. Acknowledgement of receipt of the copy of the order of arrest and the material by the Adjudicating Authority.—(1) On receipt of the outer sealed envelope along with Form II, the Adjudicating Authority or in his absence, the designated officer of the office of Adjudicating Authority shall forward Form II duly filled in, signed and his name legibly written below his signature. The seal of the office of the Adjudicating Authority shall be affixed before forwarding the Form II to the Arresting Officer as a token of receipt of the sealed envelope.

(2) The Adjudicating Authority shall, on opening of the sealed envelope, forward Form I duly filled in, signed and his name legibly written below his signature. The seal of the office of the Adjudicating Authority shall be affixed before forwarding the Form I to the Arresting Officer as a token of receipt of the copy of order of the arrest and the material.

(3) The Adjudicating Authority shall maintain registers and other records such as acknowledgement slip register, dak register, and register showing details of receipt of the copy of the order of the arrest along with the material for the purposes of this rule and shall ensure that necessary entries are made in the registers immediately on receipt of such order and the material.

5. Period of retention of a copy of the order of arrest and the material by the Adjudicating Authority.—The Adjudicating Authority shall retain the copy of order of the arrest and the material for a period of ten years, or, if before the expiry of the said period of ten years,—

(i) any proceedings under section 8 of the Act have been commenced, until the disposal of such proceedings; or

(ii) where an appeal has been preferred to the Appellate Tribunal under section 26 of the Act, until the disposal of such appeal by the Appellate Tribunal; or

(iii) where an appeal has been filed in the High Court under section 42 of the Act, until the disposal of such appeal by the High Court;

whichever is later.

6. Forms of records.—The Arresting Officer while exercising powers under sub-section (1) of section 19 of the Act shall sign the Arrest Order in Form III appended to these Rules.

7. Interpretation.—If any question arises relating to the interpretation of these rules, the matter shall be referred to the Central Government and the decision of the Central Government shall be final.

FORM I

[*See* sub-rule (2) of rule 3]

ACKNOWLEDGEMENT SLIP

Serial Number.....

Received a copy of the order of arrest of..... [Name of the person arrested] bearing No. .....dated ..... from the Director/Deputy Director/Assistant Director/authorized officer on ..... [date] at..... [time].

Signature of the Adjudicating Authority

Date.....

.....

Name of the Adjudicating Authority

Office seal

To

.....

[Arresting Officer]

Address: .....

.....

.....

FORM II

[*See* sub-rule (5) of rule 3]

ACKNOWLEDGEMENT SLIP

Serial Number.....

Received a sealed envelope bearing No. ..... dated..... from the Director/Deputy Director/Assistant Director/authorized officer on ..... [date] at..... [time].

Signature of the Adjudicating Authority/ designated officer of the office of Adjudicating Authority.

.....

Name of the Adjudicating Authority/ designated officer of the office of Adjudicating Authority.

Office seal

To

.....

[Arresting Officer]

Address:

.....

.....

.....

FORM III

(*See* rule 6)

ARREST ORDER

WHEREAS, I ..... Director/Deputy Director/ Assistant Director/Officer authorised in this behalf by the Central Government, have reason to believe that.....[name of the person arrested] resident of..... has been guilty of an offence punishable under the provisions of the Prevention of Money-laundering Act, 2002 (15 of 2003);

NOW, THEREFORE, in exercise of the powers conferred on me under sub-section (1) of section 19 of the Prevention of Money-laundering Act, 2002 (15 of 2003), I hereby arrest the said ..... [name of the person arrested] at..... hours on ..... and he has been informed of the grounds for such arrest.

Dated at ..... on this ..... day of ..... Two thousand .....

Arresting Officer

Signature with Seal

To

.....

.....

[Name and complete address of the person arrested]

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