

The Smugglers and Foreign Exchange Manipulators (Receipt, Management and Disposal of Forfeited Property) Rules, 2006

1. Short title and commencement.—

(1) These rules may be called the Smugglers and Foreign Exchange Manipulators (Receipt, Management and Disposal of Forfeited Property) Rules, 2006.

(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 Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (13 of 1976);

(b) “competent authority” means an officer of the Central Government authorised by it under sub-section (1) of section 5;

(c) “Form” means form annexed to these rules;

(d) “godown” means godown for storage of property forfeited under section 7 of the Act;

(e) “public auction” means the auction as described in the manner as laid down in Second Schedule of the Income-tax Act, 1961 (43 of 1961);

(f) “sealed tender” means the tenders covered with envelopes stamped with seal;

(g) the words and expressions used but not defined in these rules shall have the same meanings respectively assigned to them in the Act.

3. Assistance to the competent authority.—The Central Government may provide from time to time such members of staff and other persons as it thinks fit to assist the competent authority in performing the functions under these rules.

4. Designation of godowns.—

(1) The competent authority shall designate as many godowns as may be necessary for the storage of property mentioned in the orders made under section 7 of the Act.

(2) The competent authority shall select godowns referred to in sub-rule (1), keeping in view the security of the premises, storage capacity, nature of property and other relevant factors.

(3) Each designated godown shall have a godown keeper and a godown-in-charge to assist the competent authority.

5. Proper accounting of properties.—The competent authority shall, at the time of receiving properties, ensure proper identification of such property with reference to its particulars mentioned in the order made under section 7 of the Act.

6. Godown register.—The competent authority shall cause a register in Form I for recording entries in respect of property other than the properties referred to in rule 7, to be maintained.

7. Godown register for valuables.—The competent authority shall cause a register in Form II for recording entries in respect of property, namely, gold and gold jewellery, diamonds, precious and semi-precious stones (hereinafter called “valuables”) to be maintained.

8. Storage of property.—

(1) The competent authority shall ensure that the packages containing valuables are kept in the godown in an iron safe and vault, under double lock system, one key remaining with the godown-keeper and the other to be retained by the godown-in-charge.

(2) Where, for any valid reasons, it is found that the packages containing valuables may not be kept in godown, such packages shall be kept in lockers obtaining exclusively for this purpose, either with any branch of the Reserve Bank of India or of any nationalised bank.

(3) The packages referred to in sub-rules (1) and (2) shall be stored systematically case-wise, serial-wise, year-wise and with proper identification marks to facilitate re-check and inspection.

9. Management of land and building.—The competent authority may authorise any officer referred to in section 17 of the Act to take possession of land or building in respect of which an order under section 7 has been passed or where the person affected has failed to pay the fine under sub-section

(1) of section 9 within the time allowed under that section.

10. Record of land or building.—The competent authority shall maintain a record of land or building in Form III.

11. Storage of property other than valuables.—

(1) The movable property other than valuables shall be stored in almirahs and racks.

(2) Each almirah and rack shall have a stock-card indicating the case number and full description of the property.

12. Placement of stock-cards.—The godown-in-charge shall ensure that the racks or almirahs or any other thing used for storage of property, display stock-cards indicating the case number and full description of the property stored.

13. Opening and re-sealing of the packages.—

(1) Where any package is to be opened for any reason, the same shall be opened in the presence of the owner and the concerned godown-in-charge after obtaining the order of the competent authority in this respect.

(2) The packages shall be re-sealed immediately after the purpose for which such packages were opened is fulfilled, in the presence of the owner and the concerned godown-in-charge.

(3) At the time of re-sealing, the owner and the concerned godown-in-charge shall affix their seals.

14. Maintenance of forfeited conveyances.—Conveyances, such as aircraft, vessel, motor vehicle and any other mode of conveyance shall be properly maintained by the godown-in-charge till its disposal.

15. Disposal of livestock, perishable etc.—Subject to the sale proceeds being credited into the account of the Central Government, the competent authority shall dispose of the livestock and property which is perishable in nature or prone to decay in the manner deemed fit.

16. Disposal of valuables.—Subject to the sale proceeds being credited into the account of the Central Government, the competent authority shall dispose of the valuables mentioned below in the following manner, namely:—

(1) Gold, Gold Jewellery, Silver and Silver Jewellery—The valuables, namely, gold, gold jewellery, silver and silver jewellery shall be deposited in the Government of India mints which shall credit the value of such property to the Central Government.

(2) Diamonds and precious and semi-precious stones shall be sold by public auction failing which by tender after valuation by Government approved valuer.

17. Deposit of currency.—

(1) Indian and foreign currency shall be deposited with the Reserve Bank of India or any nationalised bank.

(2) The amount so deposited shall be credited into the account of the Central Government.

18. Disposal of conveyance.—Subject to the sale proceeds being credited into the account of the Central Government, conveyances, such as aircrafts, vessels, vehicles and other modes of conveyance shall be sold by public auction failing which by tender.

19. Disposal of land or building.—Subject to the relevant provisions of any law relating to the acquisition or disposal of immovable property and also subject to the sale proceeds being credited into the account of the Central Government, land or building shall be disposed of in the following manner, namely:—

(1) The disposal of land or building shall be done simultaneously through open tender, public auction and e-auction. Bids shall be invited through advertisements in local newspapers and through the website of the department. After the sealed tenders are received, the property shall be put to public auction. Simultaneously, the department shall advertise through internet inviting bids through e-auction.* The property shall be sold to the highest bidder in all the three methods namely, sealed tender, public auction and e-auction, provided the price obtained is not less than the reserve price fixed at by the department.

(2) In case the property is not disposed of in the manner prescribed under sub-rule (1) of rule 19 in two attempts, the same shall be disposed of by inviting sealed tenders:

(a) the property shall be advertised in the local newspapers indicating the reserve price and inviting tenders. The highest bidder (subject to the reserve price) shall be entitled to buy the property.

(b) if the property cannot be sold in the first attempt as provided in clause (a), the sale of the property through sealed tender shall be advertised again with a proviso that the competent authority reserves the right to sell the property to the highest bidder who offers to buy the property for a price which is up to fifteen per cent. less than the reserve price.

(c) if the property remains unsold even after the attempts as provided in clause (a) and clause (b), the sale of the property shall be advertised again with a proviso that the competent authority reserves the right to sell the property to the highest bidder who offers to buy the property for a price which is up to thirty per cent. less than the reserve price.

(3) If the property remains unsold even after attempts as provided in sub-rule (1) and sub-rule (2), it shall be disposed of through a negotiated sale upto fifty per cent. below the reserve price to any of the following entities, namely:—

(a) Central and State Government Departments.

(b) Public Sector Undertakings.

(c) Local bodies.

(4) If the property is not sold by any of the above methods, it may be disposed of by the Central Government in the manner as deemed fit.

20. Disposal of other property.—Subject to the sale proceeds being credited into the account of the Central Government, property other than those mentioned in rules 15 to 19 shall be disposed of by public auction failing which by tender.

21. Periodical reports.—The godown-in-charge shall submit, every month, a report to the competent authority of the property received or disposed of during that period.

22. Periodical inspection.—The competent authority with a view to ensuring safety, security, proper accounting and management of all properties in the godowns, conduct physical inspection and verification with the help of such officers as deemed fit.

23. Record of receipt and disposal.—The competent authority shall maintain a record of receipt and disposal of all properties received and disposed of under these rules. He shall also maintain an account of all income received and expenditure incurred on receipt, management and disposal of such property.

The Smugglers and Foreign Exchange Manipulators (Receipt, Management and Disposal of Forfeited Property) Rules, 2006 Form I (See rule 6) Godown register

1. Godown entry Sl. No.
2. Smugglers and Foreign Exchange Manipulators Act (SAFEMA) File No.
3. Description of property in the sealed packages/containers.
4. Number of packages/containers.
5. Quantity (packages/container-wise).
6. Name(s) and address(es) of accused.
7. Name with official designation and address of forfeiting officer.
8. Facsimile of the seal put on the packages/containers by the forfeiting officer
- . 9. Date and time of deposit.
10. Particulars of exit and re-entry for exhibiting to Competent Authority/Tribunal.
11. Date and time of removal for disposal.
12. Disposal particulars.
13. Certificate of disposal including price payment particulars and credit into the account of the Central Government.

14. Remarks of the Inspecting Officer(s). The Smugglers and Foreign Exchange Manipulators (Receipt, Management and Disposal of Forfeited Property) Rules, 2006 Form II (See rule 7) Godown Register for Valuables

1. Godown entry Sl. No.
2. Smugglers and Foreign Exchange Manipulators Act (SAFEMA) File No.
3. Description of valuables in the sealed packages/containers.
4. Number of packages/containers (item-wise).
5. Condition of seal at the time of entry.
6. Quantity (packages/container-wise).
7. Name(s) and address(es) of accused.
8. Name with official designation and address of forfeiting officer.
9. Facsimile of the seal put on the packages/containers by the forfeiting officer.
10. Date and time of deposit.
11. Particulars of exit and re-entry for exhibiting to Competent Authority/Tribunal.
12. Date and time of removal for disposal.
13. Disposal particulars.
14. Certificate of disposal including price payment particulars and credit into the Account of the Central Government.
15. Remarks of the Inspecting Officer(s).