



CHAPTER V ADDITIONS TO PAY

F.R.44. Subject to any restrictions which the Secretary of State in Council may by order impose upon the powers of the Governor-General in Council or the Governor in Council, as the case may be, and to the general rule that the amount of a compensatory allowance should be so regulated that the allowance is not on the whole a source of profit to the recipient, a local Government may grant such allowances to any Government servant under its control and may make rules prescribing their amounts and the conditions under which they may be drawn.

Authority competent to grant compensatory allowance.

S.S.O.1. (1) The Secretary of State in Council has decided that where an officer who has made arrangements to spend less than six months on leave in the United Kingdom during the fiscal year becomes liable to British Income-Tax though being detained on duty beyond that period, he may be granted a compensatory allowance equal to the Income-Tax on leave pay, up to maximum of six months, which he would have escaped but for such detention on duty.

Payment of Compensatory Allowance equal to British Income Tax.

(2) The decision, however, has not been embodied in the India Office rules regulating travelling, etc., allowances.

[G.I.,F.D.No.F-17(1)-CSR-25, dated 29-7-1925]

S.S.O. 2. The Secretary of State for India in Council has decided that the equipment allowance of a gentleman who is habitually resident in India at the time of receiving notice of his intended appointment as Member of the Council of India shall for the further be fixed 250. The allowances of Pounds 100 each way granted for the voyage to England on appointment and the return voyage to India on termination of officer, remains unaltered.

Equipment allowance of a Member of the Council of India.

[G.I.,F.D.No.F-17(1)C.S.R., dated 28-7-1924]

S.S.O.3. The following decisions have been reached by the Secretary of State and his Advisers:-



(1) Compensatory allowances are to be regarded as included in remuneration for the purposes of the proviso to section 247 (1) and section 250 (3) of the Government of India Act, 1935.

(2) These allowances can be withdrawn or reduced on satisfactory proof that the circumstances on which the grant was based have in fact altered to an extent justifying withdrawal or reduction.

(3) Rules regulating these allowances should continue [unless and until the Secretary of State decides to exercise his rule making powers in respect of such allowances under section 247 (1) (b) of the Act] to be made by the Government in India.

(4) As regards Secretary of State's officers, the authorities competent both to decide the question of fact in (2) and to authorise withdrawal or reduction of allowances (other than travelling allowances) are-

(a) In the case of officers to whom sub-section (3) of Section 258 of the Government of India Act, 1935, applies, the Secretary of State.

(b) In the case of other officers, the Governor exercising his individual judgement as regards officers serving in connection with the officers of a province.

[G.I.,F.D.Endt. No. F-19 (27) -Ex-1/39, dated 29-8-39]

A.G.I.1. Where the condition mentioned in clause (2) of S.S.O. 3 above, is fulfilled it is permissible-

(i) for the competent authority as defined in clause (4) *ibid* to deliberalize the rules or orders having the force of rules, regulating compensatory allowances other than travelling allowances; and



(ii) for the competent authority as defined in the ' Travelling Allowances (Secretary of State's Officers) Rules, 1939', to deliberalize the rules or orders having the force of rules, regulating travelling allowances in their application to all Secretary of State's Officers and such a modification under such condition does not amount to giving less favourable terms as respects remuneration within the meaning of the proviso to Section 247 (1) and sub-section (3) of Section 250 of the Government of India Act, 1935.

The decision is based on the consideration that the amount of a compensatory allowance has always been subject to the condition that the allowance should not be a source of profit to the recipient (vide Fundamental Rule 4) and if the amount of the allowance is reduced to make it conform to this condition, recipient cannot be said to be adversely affected or to suffer any deliberalization in the terms of their remuneration.

[Auditor General's U.O. Note No.68-A/256-12, dated 2-12-1943 copy received with G.I.,F.D. Endt. No. F-5 (107)-R-1/43, dated 12-12-1943]

G.I.O.- It is within the competence of the local Government to sanction, under Fundamental Rule 44, compensatory allowance the cost of which is debited to provincial revenues for military officers on the personal staff of Governors.

[G.I., H.D. letter No. F.269-32-Ests.]

A.G.I. Hill allowances fall under "Compensatory Allowances" local Government have powers to sanction them under Fundamental Rule 44.

Hill allowance a compensatory Allowance.

S.R.1.- A compensatory allowance attached to a post will be drawn in full by a Government servant performing the duties of that post, and if such a Government servant is transferred to a post to which a compensatory allowance of a like nature is attached, he may draw the allowance during joining time, provided that if the rates of allowances differ, he may draw the lower rate only.



S.R.2.- Compensatory allowances, other than house-rent allowances, may not be drawn by Government servants on leave except in special cases and with the sanction of Government.¹

[Compensatory allowance granted while on duty to Public Health and Medical personnel including those serving in Labour Department shall be admissible to them during leave subject to the following conditions:-

- (i) the leave is not one preparatory to retirement;
- (ii) the allowance shall be admissible only during the first four months of each period of "leave on average pay" or during the period of 'earned leave' according as the Government servant concerned, is subject to the leave rules in Fundamental Rules or the Revised Leave Rules, 1934;
- (iii) the head of office certifies in writing that the loss of private practice continues during leave; and
- (iv) the allowance during leave shall be based on leave salary and not pay.]

S.R.2-A.- A House-rent allowance may be drawn by a Government servant during the first four months of each period of leave on average pay or full pay or for six months in the case of leave admissible under the special concession referred to in Note 1 to Fundamental Rule 89, provided that (a) the leave is not preliminary to retirement; (b) the leave is taken from a post on which such an allowance is attached; and (c) the Government servant certifies that his previous rate of expenditure for a house continues during leave and that he places his house, free of rent, at the disposal of the Government servant, if any, who officiates in his post. The officiating Government servant cannot in such case draw the house rent allowance attached to the post. If, however, the officiating Government servant, for a reason which a competent authority considers to be sufficient, refuses the accommodation

¹Substituted by F.D. Notification No. 389-IV-R-II-66, dated 26.2.66.



placed at his disposal he, and not the absent Government servant will draw the allowance.

S.R. 2-B.- [Deleted]

S.R. 2-C.- The drawal of a house-rent allowance is contingent on the Government servant's incurring the full amount of expenditure to meet which the allowance is granted. A claim on account of house-rent allowance should, therefore, be supported by a certificate in the following form to be furnished by the officer himself (if he is a gazetted officer) or by the drawing officer in the case of non-gazetted establishments, with each bill containing a charge for house-rent allowance:-

"Certified that Government quarters have not been provided and that the actual expenditure incurred for the hire of the house is not less than the allowance claimed."

²
[In case of a Government servant on study Leave, the Drawing Officer should furnish a certificate:-

" Certified that the Government servant on Study Leave for whom House Rent Allowance is drawn in the leave salary bill is likely to be reposted to his former post and that his family continues to reside at the station where the Government servant was residing prior to his proceeding on study leave."]

A.G.I. The maximum period during which a Government servant can be allowed to draw compensatory allowances while on leave is four months (or six months in the case of leave admissible under the special concession referred to in note 1 to Fundamental Rule 89). The length of the total period of leave is irrelevant, but compensatory allowance cannot be drawn during any period of leave which is not leave on average pay.

Compensatory allowance to be drawn only during leave on average pay for four months.

²Inserted by F.D. Notification No. 2266-639-IV-R-I, dated 16.7.63.



Provision of
Government
residences.

F.R. 45. A local Government may make rules laying down the principles governing the allotment to officers serving under its administrative control, for use by them as residences, of such buildings owned or leased by it, or such portions thereof, as the local Government may make available for the purpose. Such rules may lay down different principles, for observance in different localities or in respect of different classes of residences, and may prescribe the circumstances in which such an officer shall be considered to be in occupation of a residence.

N.B.- For rules made by the local Government see Appendix XVI.

Assessment and
recovery of
³
[License fee].

F.R.45-A. 1. This rule applies, with effect from the 1st April 1924, to members of the services and to Government servants holding the posts included in the Schedule to this rule and to Government servants who hold in a substantive capacity posts borne on the cadre of the services included therein.

II. For the purpose of the assessment of license fee, the capital cost of a residence owned by Government shall include the cost or value of sanitary, water supply and electric installations and fittings, but exclude the cost or value of site (including expenditure on its preparation) and shall be either-

(a) the cost of acquiring or constructing the residence and any capital expenditure incurred after acquisition or construction; or, when this is not known,

(b) the present value of the residence.

Note.- The cost of restoration or special repairs shall not be added to capital cost of present value, unless such restoration or repairs add to accommodation or involve replacement of the existing type of work by work of a more expensive character:

Provided that-

³Substituted by F.D. Notification No. 284-R-331-IV-R-I, dated 21.3.70.



- (i) a local Government may make rules providing the manner in which the present value of residences shall be determined;
- (ii) a local Government may make rules determining what expenditure is to be regarded, for the purpose of sub-clause (a) above, as expenditure upon the preparation of a site;
- (iii) a local Government may, for reasons which should be recorded, authorise a revaluation of all residences of a specified class or classes within a specified area to be conducted under the rules referred to in proviso (i) above, and may revise the capital cost of any or all such residences on the basis of such revaluation;
- (iv) the capital cost, however calculated, shall not take into consideration (1) any charges on account of establishment and tools and plant other than such as were actually charged direct to the work in cases in which the residence was constructed by Government, or (2) in other cases, the estimated amount of such charges;
- (v) a local Government may, for reasons which should be recorded, write off a specified portion of the capital cost of a residence-
 - (1) when a portion of the residence must be set aside, by the officer to whom the residence is allotted for the reception of official and non-official visitors visiting him on business, or
 - (2) when it is satisfied that the capital cost, as determined under the above rules, would be greatly in excess of the proper value of the accommodation provided;
- (iv) in assessing the cost or value of the sanitary, water-supply and electric installations and fittings, a local Government may by rules determine what are to be regarded as fittings for this purpose.



A.G.I.:- A question having arisen whether, under provisos (i) and (iii) to Fundamental Rules 45 A-II, a local Government is competent to determine the present value of a residence, the capital cost of which is already known, the Government of India have issued the following interpretation:-

The substantive part of the rule provides that for the purpose of the assessment of licence fee the capital cost of a residence shall be either-

(a) the cost of acquiring or constructing the residence and any capital expenditure incurred after acquisition or construction; or, when this is not known,

(b) the present value of the residence.

Clause (i) in the proviso obviously does not more than supplement (b) in the substantive part by settling the manner in which the present value is to be determined in cases in which the factors specified in (a) are not known. Clause (iii) which unlike clause (i) is a true proviso, alters the operation of the substantive part of the rule by empowering the local Government to substitute for the capital cost determined in accordance with (a) in the substantive part, in a case when the factors specified in (a) are known, a new capital cost represented by the present value calculated in accordance with the rules made under proviso (i) for the primary purpose of determining the present value in cases to which (b) in the substantive part is applicable.

(c) In both cases standard licence fee shall be expressed as standard for a calendar month and shall be equal to one twelfth of the annual licence Fee as calculated above, subject to the proviso that, in special localities or in respect of special classes of residence, a local Government may fix a standard licence fee to cover a period greater than one month but not greater than one year. Where a local Government takes action under this proviso standard licence fee so fixed shall not be a larger proportion of the annual licence fee than



the proportion which the period of occupations as prescribed under clause I above bears to one year.

Notes.- (1) For the purpose of sub-clauses (a) and (b) above, the addition for both ordinary and special maintenance and repairs, shall not include anything for the establishment and tools and plant charges, except to the extent allowed under proviso (iv) to clause II.

(2) A local Government may by rules permit minor additions and alterations, the cost of which does not exceed a prescribed percentage of the capital cost of the residence, to be made during such period as the rule may determine, without the licence fee of the residence being increased.

III. The standard licence fee of a residence shall be calculated as follows:-

⁴[(a) (i) in the case of leased residence, the standard licence fee shall be the sum paid to the lessor;

(ii) in the case of a requisitioned residence the standard licence fee shall be the compensation payable to the owner of the building;

plus in both cases as addition determined under rules which a local Government may make, for meeting, during the period of lease or requisition, as the case may be, such charges for both ordinary and special maintenance and repairs and for capital expenditure on additions or alterations as may be a charge on Government and for the interest on such capital expenditure, as also for municipal and other taxes in the nature of house or property tax payable by Government in respect of such residence.]

(b) In the case of residences owned by Government, the standard licence fee shall be calculated on the capital cost of the residence, and shall be either-

⁴Substituted by F.D. Notification No. 1369-CR-1600-IV-R-I, dated 16.9.66.



(i) a percentage of such capital cost equal to such rate of interest as may from time to time be fixed by the Secretary of State in Council *plus* an addition for municipal and other taxes in the nature of house or property tax payable by Government in respect of the residence and for both ordinary and special maintenance and repairs, such addition being determined under rules which a local Government may make, or

(ii) 6 per cent per annum of such capital cost, whichever is less.

G.I.O. The term "property tax" as used in the rule should be interpreted in the general sense and not in the technical sense assigned to it in any particular Act or Code; and it should therefore not be considered to include taxes levied for specific services rendered for the benefit of the occupier. Such taxes should in all cases be excluded from the Standard Licence Fee and recovered from the occupier, irrespective of whether they were by local rule or custom, payable in the first instance by landlord or by the occupier.

These orders apply also in cases where Government servants are provided with Government accommodation, free of Licence fee.

[Government of India, Finance Department letter No. F. 25 (27) Ex-II-42, dated the 26th June 1942]

Rate of interest.

A.G.I. The rates of interest given in the following table should be applied in calculating the Standard licence Fee of residences, under clause III (b) of Fundamental Rules 45-A and 45-B-

Date of acquisition or construction of the residence	Rate of interest	
	Building occupied on or before the 19th 1922	Building occupied after the 19th June 1922



Befor 1st April 1919	.. 3 1/2 per cent	4 per cent
1st April 1919 to 31st July 1921	.. - do -	5 per cent
1st April to 31 December 1921	.. - do -	6 per cent
Frin 1st January 1922 until further orders	6 per cent	- do -

Note.- The date of construction referred to in column (1) of this table should be taken as the date on which the accounts of the estimate for the construction of the residence are closed. In respect of expenditure on additions and alteration to residences the interest should be calculated at the rate applicable on the date on which the accounts of the estimates for the addition or alteration are closed.

IV. When Government supplies an officer with a residence⁵ [leased or requisitioned] or owned by Government, the following conditions shall be observed -

(a) The scale of accommodation supplied shall not, except at the officer's own request, exceed that which is appropriate to the status of the occupant.

(b) Unless in any case it be otherwise expressly provided in these rules, he shall pay (i) licence fee for the residence, such licence Fee being the standard licence fee as defined in clause III above or 10 per cent; of his monthly emoluments, whichever is less; and (ii) municipal and other taxes payable by Government in respect of the residence not being in the nature of house or property tax.

A.G.I. A Government servant who, at his own request, is supplied with a residence owned or leased by the Central Government, of a class higher than that for which he is eligible, when a house of his class is available for him, should be charged the full Standard Licence Fee fixed for the residence and should not be given the benefit of 10 per cent concession afforded by clause IV (b) of Fundamental Rules 45-A and 45-B.

When residence of a higher class owned by Central Government is supplied.

⁵Substituted by F.D. Notification No. 929-CR-820-IV-R-I, dated 2.5.62.



(c) Notwithstanding anything contained in sub-clause (b) above, a local Government may-

(i) at any time after the standard licence fees have been calculated under the provisions of clause III above, group a number of residences, whether in a particular area or of a particular class or classes for the purpose of assessment of licence Fee subject to the following conditions being fulfilled:-

(1) that the basis of assessment is uniform; and

(2) that the amount taken from any officer shall not exceed 10 per cent of his monthly emoluments;

(ii) by general or special order, provide for taking a licence fee in excess of that prescribed in sub-clause (b) above from an officer-

(1) who is not required or permitted to reside on duty at the station at which the residence is supplied to him, or

(2) who, at his own request, is supplied with accommodation which exceeds that which is appropriate to the status of the post, held by him, or

(3) who is in receipt of a compensatory allowance granted on account of dearness of living, or

(4) who is permitted to sublet the residence supplied to him; or

(5) who sublets without permission the residence supplied to him; or

(6) who does not vacate the residence after the cancellation of allotment.

⁶[(d) (i) where the standard licence fee of a residence cannot be determined for reasons to be recorded in writing at the

⁶Inserted by F.D. Notification No. 1930-CR-2381-IV-R-I, dated 26.10.63.



time of its allotment, the Government servant shall pay such licence fee as may be fixed by the Government on the basis of the actual expenditure on the construction or the cost of acquisition of the building, the cost of fittings therein and the known and anticipated liabilities relating thereto *plus* 10 per cent of the amount so arrived at or 10 per cent of his monthly emoluments whichever is less.

(ii) the licence fee so fixed shall remain effective till the standard licence fee for that building is determined on completion of the building and will not be increased in any case during the interim period.]

A.G.I. 1. Under clause IV (c) (ii) of Fundamental Rules 45 - A and 45-B, a local Government may, recover licence fee in excess of 10 per cent of a Government servant's emoluments, but not in excess of the standard licence fee as defined in clause III of the rule.

Recovery of licence fee in excess of 10 per cent of emoluments.

A.G.I. 2.- A.G.I.1. above embodies an interpretation of Fundamental Rules 45-A given by the Governor-General in Council under Fundamental Rule 8 and is intended to apply in the case of all Secretary of State's officers in all the circumstances mentioned in clause IV (c) (ii) of Fundamental Rules 45-A, irrespective of whether they are on leave or, being on duty at one station, are allowed to occupy a Government residence at another station.

[Audtr. Genl's letter No. 503-A-270-41, dated 16-12-41]

V. In special circumstances, for reasons which should be recorded, a local Government-

(a) may, by general or special order, grant licence fee free accommodation to any Officer or class of Officers, or

(b) may by special order, waive or reduce the amount of licence fee to be recovered from any officer, or

(c) may, by general or special order, waive or reduce the amount of municipal and other taxes not being in the nature



of house or property tax, to be recovered from any officer or class of officer.

S.S.O. Government servants granted licence fee concessions under old F.R. 45 (e).- Government servants to whom Fundamental Rule 45-A applies and who have been granted licence free quarters under old Fundamental Rule 45 (e) but without exemption under clause (f) of that rule from additional licence fee on account of sanitary, water supply and electric installations in respect of quarters occupied after the 1st April 1924, on the ground that the standard licence fee of a residence under Fundamental Rule 45-A includes also licence fee on account of such installations.

[G.I.F.D., letter No. F-3-VII-R-I-28, dated the 7th June 1928]

A.G.I. In exercise of the powers granted to him by the Fundamental Rule 8, the Governor-General in Council has ruled that it is permissible to deal under clause V(b) of Fundamental Rule 45-A or 45-B, not only with individuals but also with classes of Government servants.

VI. If a residence is supplied with services, other than water supply, sanitary or electric installations and fittings, such as furniture, tennis court, or garden maintained at the cost of Government, licence fee shall be charged for these in addition to the licence fee payable under clause IV. The tenant will also be required to pay the cost of the water, electric energy, etc., consumed. A Local Government may make rules prescribing how the additional licence fee and charges shall be determined and such rules may also authorize the remission or reduction of the additional licence fee or charge in special circumstances for reasons which should be recorded.

G.I.O.- The Government of India have decided that a (1) frig'daire and (2) portable electric heater or water-heater should be classified as furniture.

[(1) Controller of Civil account's letter No. 1368-Admn. 185-30, dated the 1st September 1930 received with Accountant Genral,



Central Provinces letter No. T.I.1589, dated 24th September 1930]

[(2) Auditor-General's letters NO. T-458-Admn. II-96-36, dated 29th June 1936 received with Accountant-General, Central Provinces memorandum No. W.915-151, dated the 4th August 1936.]

L.G.O.- Both Frig'daire and electric water-heater should be treated as special service for the purpose of the above rule.

A.G.I.- The question has been raised whether the value of the site should be excluded in calculating the additional licence fee payable under Fundamental Rule 45-A for the special services referred to therein. Clause II of Fundamental Rule 45-A definitely excludes the cost of site from the calculation of ordinary licence fee with object inter alia that there should be no inequality in licence fee merely on account of site values. Inequalities of the same kind and due to the same cause would, however arise if the licence fee charged for services included the cost of site. Ordinarily, houses of the class affected by the rule in question already have a compound large enough to accommodate the special service. If the house had no special service provided no licence fee would be payable for the site and it would not be reasonable to commence to charge licence fee for site, because of the provision of a special service in cases where the site remains the same. The Governor-General in Council has therefore decided that the value of the site should be excluded in calculating the licence fee or special service under Fundamental Rule 45-AVI.

VII.- A local Government may by rule prescribe that this rule shall apply with effect from any date not earlier than the 1st April, 1924 to any Government servant or class of Government servants other than those mentioned in the rule.

VIII.- Nothing contained in this rule shall so operates as to require payment of licence fee for the occupation of residences supplied by Government, by those servants of the Crown in India who have been exempted from such payment by order of the



Secretary of State in Council, or to affect the amount of licence fee or charges payable by those servants of the Crown in India, in whose case the amount so payable is prescribed by the Secretary of State in Council.

SCHEDULE TO RULE 45-A

A- Service

Indian Civil Service
Indian Police.
Indian Agricultural Service.
Indian Educational Service.
Indian Forest Service.
Indian Forest Engineering Service.
Indian Medical Service (Civil).
Indian Service of Engineers.
Indian Veterinary Service.
Indian Audit and Accounts Service.
Superior Service Officer of the Military Accounts
(Department of Mints and Assay Department).
Imperial Customs Service.
Superior Telegraph Engineering and Wireless Branches
of Indian Posts and Telegraphs Department.
Geological Survey of India (Director, Superintendent,
Assistant Superintendents and Chemists).
Indian Meteorological service (Director-General of
Observatories and Meteorologists.)
Department of Mines in India.
Archaeological Department .
Zoological Survey of India.
Survey of India, Class 1.
Indian Ecclesiastical Establishment.
Political Department of the Government of India.
Medical Research Department (Excluding Indian
Medical Service Officers).
Opium Department excluding officers who joined the
Department after the 2nd April 1907.
Bengal Pilot Service.



B - POSTS

1. Indian Posts and Telegraph Department -
 - (i) In the postal department -
Deputy Director General.
Postmasters General.
Deputy Postmaster General.
Assistant Directors General.
Presidency Postmasters (including Postmaster, Rangoon).
 - (ii) In the Telegraph Traffic Branch-
Deputy Director General.
Assistant Director General.
First Division of Superior Traffic Branch.
2. Commissioners and Assistant Commissioners of Income-Tax.
3. Commissioner, Deputy Commissioner and General Managers of the Northern Indian Salt Revenue Department.
4. Officer of the Government Department if on the Supernumerary List.

G.I.O. 1.- [Deleted]

G.I.O. 1.- The Government of India have decided that the following procedure should be observed in regulating the recovery of licence fee from officers of the Provincial Government for whom residential accommodation is provided by the railway administration as also for the recovery of licence fee from railway officer occupying residential accommodation belonging to the Provincial Government :-

(1) Railway quarters specifically constructed for the Police Department - The provisions of Railway Department (Railway Board) Circular No.932 W, the 10th October 1936, will apply in these cases.



(2) State Railway quarters occupied by civil servants of Madhya Pradesh Governemnt by mutual arrangements - The licence fee will be limited to 6 percent on the capital cost excluding cost of land, subject to 10 percent of pay.

(3) Quarters belonging to Madhya Pradesh Government occupied by railway employees by mutual arrangement - In these cases civil servant will apply, i.e. the licence fee will be limited to 6 percent on the capital cost excluding cost of land, subject to 10 percent of pay.

[Government of India, Railway Department (Railway Board) end or- sement No. 5464-F, dated the 6th June 1936]

N.B.- For supplementary Rules made by the Local Government see Appendix XVI.

Assessment and
recovery of
Licence Fee.

F.R. 45-B. 1. This rule applies to Government servants other than those to whom rule 45-A applies or is made applicable under the provisions of clause VII of that rule, or than those occupying residences belonging to a State Railway, or rented at the cost of railway revenues.

II. For the purposes of sub-clause (b) of clause III, the capital cost of a residence owned by Government shall not include the cost or value of such special services and installations (including furniture, tennis courts and sanitary, water-supply or electric installations and fittings) as it may contain and shall be either-

(a) the cost of acquiring or constructing the residence, including the cost of the site and its preparation and any capital expenditure incurred after acquisition or construction; or, when this is not known,

(b) the present value of the residence including the value of site.

Note.- The cost of restoration or special repairs shall be added to capital cost or present value, unless such restoration or repairs add



to accommodation or involve replacement of the existing type of work by work of a more expensive character-

Provided that-

- (i) a local Government may make rules providing the manner in which the present value of residences including sites, shall be determined;
- (ii) a local Government may make rules determining what expenditure is to be regarded for the purpose of sub-clause (a) above as expenditure upon the preparation of a site;
- (iii) a local Government may, for reasons which should be recorded authorize a revaluation of all residence of a specified class or classes within a specified area to be conducted under the rules referred to in proviso (i) above, and may revise the capital cost of any or all such residences on the basis of such revaluation;
- (iv) the capital cost, howsoever calculated, shall not take into consideration (1) any charges on account of establishment and tools and plant other than such as were actually charged direct to the work in cases in which the residence was constructed by Government, or (2) in other cases, the estimated amount of such charges;
- (v) a local Government may, for reasons which should be recorded, write off a specified portion of the capital cost of residence-
 - (1) when a portion of the residence must be set aside, by the Government servant to whom the residence is allotted, for the reception of official and non-official visitors visiting him on business; or
 - (2) when it is satisfied that the capital cost, as determined under the above rules, would be greatly in excess of the proper value of the accommodation provided;



(vi) in assessing the cost or value of the sanitary, water-supply and electric installations and fittings, a local Government may, by rules, determine what are to be regarded as fittings for this purpose.

III. The standard licence fee of a residence shall be calculated as follows:-

⁷[(a)(i) in the case of a leased residence, the standard licence fee shall be the sum paid to the lessor;

(ii) in the case of requisitioned residence the standard licence fee shall be the compensation payable to the owner of the building;

plus in both cases an addition determined under rules which a local Government may make, for meeting, during the period of lease or requisition, as the case may be, such charges for both ordinary and special maintenance and repairs and for capital expenditure on additions or alterations as may be charge on Government and for the interest on such capital expenditure, as also for municipal and other taxes in the nature of house or property tax payable by Government in respect of such residence.]

(b) In the case of residences owned by Government, the standard licence fee shall be calculated on the capital cost of the residence, and shall be a percentage of such capital cost equal to such rate of interest as may from time to time be fixed by the Secretary of State in Council, *plus* an addition for municipal and other taxes in the nature of house or property tax payable by Government in respect of the residence and for both ordinary and special maintenance and repairs, such addition being determined under rules which a local Government may make.

⁷Substituted by F.D. Notification No.1369-CR-1600-IV-R-I, dated 16.4.66.



(c) In both cases standard licence fee shall expressed as standard for a calendar month and shall be qual to one-twelfth of the annual licence fee as calculated above, subject to the proviso that, in special localities or in respect of special classes of residence, a local Government may fix a standard licence fee to cover a period greater than one month but not greater than one year. Where a local Government takes action under this proviso standard licence fee so fixed shall not be a larger proportion of the annual licence fee than the proportion which the period of occupation as prescribed under clause I above bears to one year.

Notes.- (1) For the purpose of sub-clause (a) and (b) above, the additions for both ordinary and special maintenance and repairs shall not include anything for the establishment and tools and plant charges, except to the extent allowed under proviso (iv) to clause II.

(2) A local Government may by rules permit minor additions and alterations, the cost of which does not exceed a prescribed percentage of the capital cost of the residence, to be made during such period as the rule may determine, without the licence fee of the residence being increased.

G.I.O. The term "property tax" as used in rule should be interpreted in the general sense and not in the technical sense assigned to it in any paricular Act or Code; and it should therefore not be considered to include taxes levied for specific services rendered for the benefit of the occupier. Such taxes should in all cases be excluded from the standard licence fee and recovered from the occupier, irrespective of whether they were by local rule or custom, payable in the first instance by the landlord or by the occupier.

These orders apply also in cases where Government servants are provided with Government accommodation, free of licence fee.



[Government of India, F.D. letter No. F25 (27)-Er.II-42, dated 26th June 1942]

IV. When Government supplies a Government servant with a residence ⁸[leased or requisitioned or] owned by Government, the following conditions shall be observed:-

(a) The scale of accommodation supplied shall not, except at the officer's own request, exceed that which is appropriate to the status of the occupant.

(b) Unless in any case it be otherwise expressly provided in these rules, he shall pay (i) licence fee for the residence, such licence fee being the standard licence fee as defined in clause III above or 10 per cent of his monthly emoluments, whichever is the less; and (ii) municipal and other taxes payable by Government in respect of the residence not being in the nature of house or property tax.

(c) Notwithstanding anything contained in sub-clause (b) above a local Government may:-

(i) at any time, after the standard licence fee have been calculated under the provisions of clause III above, group a number of residences, whether in a particular area or of a particular class or classes for the purpose of assessment of licence fee subject to the following conditions being fulfilled:-

(1) that the basis of assessment is uniform, and

(2) that the amount taken from any Government servant shall not exceed 10 per cent of his emoluments;

(ii) by general or special order, provide for taking licence fee in excess of 10 per cent of his emoluments from a Government servant-

⁸Inserted by F.D. Notification No. 929-CR-820-IV-R-I, dated 2.5.62.



- (1) who is not under its own administration control, or
- (2) who is not required or permitted to reside on duty at the station at which the residence is supplied to him, or
- (3) who, at his own request, is supplied with accommodation which exceeds that which is appropriate to the status of the post held by him, or
- (4) who is in receipt of a compensatory allowance granted on account of dearness of living;

⁹[(d) (i) where the standard licence fee of residence cannot be determined for reasons to be recorded in writing at the time of its allotment, the Government servant shall pay such licence fee as may be fixed by the Government on the basis of the actual expenditure on the construction or the cost of acquisition of the buildings, the cost of fittings therein and the known and anticipated liabilities relating thereto *plus* 10 per cent of the amount so arrived at or 10 per cent of his monthly emoluments, whichever is less.

(ii) The licence fee so fixed shall remain effective till the standard licence fee for that building is determined on completion of the building and will not be increased in any case during the interim period].

V. In special circumstances, for reasons which should be recorded, a local Government-

- (a) may, by general or special order, grant licence fee free accommodation to any Government, or class of Government Servants, or
- (b) may, by special order waive or reduce the amount of licence fee to be recovered from any Government servant, or

⁹ Inserted by F.D. Notification No. 1930-CR-2381-IV-R-I, dated 26.10.63.



(c) may, by general or special order waive or reduce the amount of municipal and other taxes, not being in the nature of house or property tax, to be recovered from any Government servant or class of Government servants.

VI. If a residence is supplied with one or more of the following or similar services, furniture, installation (including fittings) for water or electricity supply or for sanitary purposes, tennis court, or garden maintained at the cost of Government, licence fee shall be charged for these in addition to the licence fee payable under clause IV. The tenant will also be required to pay the cost of the water, electric energy etc. consumed. A local Government may make rules prescribing how the additional licence fee and charges shall be determined, and such rules, may also authorize the remission or reduction of the additional licence fee or charge in special circumstances for reasons which should be recorded.

VII. Nothing contained in this rule shall so operate as to require payment of licence fee for the occupation of residences supplied by Government to those servants of the Crown in India who have been exempted from such payment by order of the Secretary of State in Council or to affect the amount of licence fee or charges payable by those servants of the Crown in India, in whose case the amount so payable is prescribed by the Secretary of State in Council.

N.B.- For the rules for the occupation of cottages in Starky Town made by the Local Government under rule 4(1) of the Civil Services (Governor's Provinces) Delegation Rules, see Appendix XVII.

Emoluments for purposes of recovery of licence fee.

F.R.45-C. For the purpose of rules 45-A and 45-B emoluments mean-

(i) Pay;

(ii) Payments from general revenues and fees, if such payments or fees are received in the shape of a fixed addition



to monthly pay and allowances as part of the authorised remuneration of a post;

(iii) Compensatory allowances, other than travelling allowance, uniform allowance, clothing allowance, outfit allowance, special outfit allowance¹⁰ [city compensatory allowance]¹¹ uniform grant and grant for horse and saddlery,¹² [non-practicing allowance], [project allowance] whether drawn from the Consolidated Fund of India or of a State or from a Local Fund.

[Finance Department Notification No. 763-CR-2060-57-IV-R-I, dated 21-3-1960]

(iv) Exchange compensation allowance.

(v) Pension, other than a pension drawn under the provisions of Chapter XXXVIII, Civil Service Regulations, or compensation received under the Workmen's Compensation Act, 1923, as subsequently amended.

¹³ [(vi) In the case of a Government servant under suspension and in receipt of a subsistence allowance, he shall be allowed to occupy the Government residence during the period of suspension on the same licence fee which he was paying prior to such suspension.]

Note.- This amendment shall have retrospective effect, i.e., it shall be deemed to have come into force from 6th July 1960.

It does not include allowances attached to the Victoria Cross, the Military Cross, the King's Police Medal, the Indian Police Medal, the Order of British India or the Indian Order of Merit.

¹⁰ Inserted by F.D. Notification No. 703-3695-76-R-I-IV, dated 14.6.77.

¹¹ Inserted by F.D. Notification No. 773-104-IV-R-I-69, dated 30.6.69.

¹² Inserted by F.D. Notification No. 51/R-2295/R-I/81/IV, dated 12.1.81.

¹³ Substituted by F.D. Notification No. 228-2791-IV-R-I, dated 11.12.66.



Notes.- (1) The emoluments of a Government servant paid at piece-work rate shall be determined in such manner as the Local Government may prescribe.

(2) The emoluments of an officer on leave means the emoluments drawn by him for the last complete calendar month of duty performed by him prior to his departure on leave.

¹⁴
[(3) The amount of pension to be taken into account will be the amount originally sanctioned, i.e. before commutation, if any, and will also include the pension equivalent of death-cum-retirement gratuity and other forms of retirement benefits, if any, e.g., Government's contribution to a Contributory Provident fund, Commuted Value of Pension etc.]

L.G.R. For the purpose of rule 45-C (ii) only that portion of the fees received by a Government servant which he is allowed to retain for himself should count as 'emoluments.'

[Government of India, Ministry of Finance, Office memo No. F.17 (13) -EG-I-49, dated 12-5-49]

G.I.O.- The term "pension" occurring in this rule should be held to mean the full sanctioned pension prior to commutation.

[G.I.F.D. letter No.F-32 (8)-R-I-30, dated 12-5-1949.]

Fees and
honoraria.

F.R. 46 (a.) Fees Subject to rules made by the Governor-General in Council under rule 46-A, a local Government may permit a Government servant, if it be satisfied that this can be done without detriment to his official duties or responsibilities, to perform a specified service or series of services for a private person or body or for a public, including a body administering a local fund or for an Indian State or for another Government and to receive as remuneration therefore, if the service be material, a non-recurring or recurring fee.

¹⁴ Inserted by F.D. Notification No. 809-119-IV-R-I, dated 24.3.60.



Note.- This clause does not apply to the acceptance of fees by medical officers in civil employ for professional attendance which is regulated by the orders of the Secretary of State in Council.

(b) Honoraria.- A local Government may grant or permit a Government servant to receive an honorarium as remuneration for work performed which is occasional¹⁵ [or intermittent] in character and either so laborious or of such special merit as to justify a special reward. Except when special reasons, which should be recorded in writing, exist for a departure from this provision, sanction to the grant or acceptance of an honorarium should not be given unless the work has been undertaken with the prior consent of the local Government and its amount has been settled in advance.

L.G.R. 1. Manner of sanction and payment.- When an honorarium is to be given from provincial revenues to a Government servant serving in one department for work in another department, sanction to its payment should be issued by the department which has to bear the charge with the concurrence of the department in which the Government servant is serving at the time. If this is done, there will be no need to issue separate sanctions for the payment and acceptance of the honorarium.

L.G.R. 2 Copies of sanction to the grant of an honorarium should be forwarded to the audit office as soon as they are accorded, and not when the payment becomes due, in order to enable it to watch in audit, cases in which work has been undertaken without the prior sanction of the competent authority.

Procedure regarding communication of sanction to the payment of honorarium.

In the case of examinations, it will be sufficient if the sanctioning authority specifies the names of the persons appointed as examiners and the rates at which honorarium is to be allowed.

¹⁶**[L.G.R. 3.-** A question has been raised whether under F.R.46 (b) an honorarium can be granted to a Government servant in consideration of (1) temporary increase in work; (2) long hours

¹⁵ Inserted by F.D. Notification No. 4776-IV-R-II, dated 13.8.60.

¹⁶ Inserted by F.D. Notification No.277 P.K. 316-IV-R-2-71, dated 5.2.71.



of work put in by an officer in connection with setting up of a Corporation/Companies, etc., which forms part of their normal duties; and (3) performing the duties of another sanctioned post in addition to his own. It has been decided as under:-

(1) No honorarium is admissible for temporary increases in work which are normal incidents of Government work and form part of the legitimate duties of Government servants according to general principle enunciated in F.R. 11.

(2) Honorarium should not be granted to officers engaged in work in connection with setting up of Companies/Corporations, etc., which forms part of their legitimate duties, even if they work after the office hours.

(3) Honorarium has been defined in F.R.9 (9) as a recurring or non-recurring payment granted to a Government servant from the consolidated Fund of India or Consolidated Fund of the State as remuneration for special work of an occasional or intermittent character. When a post is sanctioned the duties attached to it can hardly be regarded as occasional or intermittent in character. Hence when in addition to his own duties a Government servant is required to perform the duties of another sanctioned post, he should be deemed to be performing additional duties which are not occasional or intermittent in character, even though he may be asked to perform such additional duties for a short period. Honorarium under F.R. 46 (b) will not be admissible to a Government servant who is required to perform the additional duties of another sanctioned post.]

(c) Fees and Honoraria.- In the case of both fees and honoraria the sanctioning authority shall record in writing that due regard has been paid to the general principle enunciated in Fundamental Rule 11, and shall record also the reasons which in his opinion justify the grant of the extra remuneration.

Honoraria to
medical officer in
Civil employ.

G.I.O. The Government of India have decided that neither Fundamental Rule 47 nor Fundamental Rule 46-A is intended to



limit the general power of local Government to sanction under Fundamental Rule 46 honoraria from general revenues to medical officers in civil employ for serving as examiners.

A.G.I. 1. The rule requires that the reasons for the grant should be recorded in writing, as it is intended that the grant of an honorarium or fee should be carefully controlled by Government and scrutinized by audit, and that audit should be given an effective opportunity of comment if it be deemed necessary. Audit officers may, therefore, require that the reasons for the grant of an honorarium or fee should be communicated to them in each case.

Reasons to be recorded.

A.G.I. 2. The honorarium paid to an officer selected as an examiner or lecturer on purely personal grounds irrespective of his position under Government, though these grounds may bring about his appointment in successive years, or for a term of years should be dealt with under Fundamental Rule 46 and not treated as a recurring charge.

Honoraria to lecturers and examiners.

L.G.R. In all letters conveying sanction to the acceptance of a fee by a Government servant, it should be stated whether the fee is to be paid direct to the Government servant or through the intermediary of Government [vide F.R. 9(6-A).]

Sanction to state whether the fee is to be paid directly or through Government.

F.R. 46-A. The Governor-General in Council may make rules prescribing the conditions and limits subject to which a fee may be received by a medical officer in civil employ for services other than professional attendance.

Honoraria or fees to medical officers in civil employ.

N.B.- (1) See G.I.O. below Fundamental Rule 46.

N.B.- (2) The procedure regulating the acceptance of fees by Indian Medical Service Officers in civil employ and officers of the Madhya Pradesh Provincial and Subordinate Medical Services for giving evidence in a court of law is laid down in paragraph 219-A of the Madhya Pradesh Medical Manual.

G.I.O.- The Government of India consider that a duty imposed on a Government servant by statute must ordinarily be performed without extra payment. There is therefore no reason for



giving a Civil Surgeon or other medical officer a fee for performing his statutory duties under the Tea Districts Emigrants Labour Act and rules made thereunder. If, however, medical officers are asked by Employees or Employees Associations to give assistance in respect of matters relating to emigration to Assam which are not part of their statutory duties, the Local Government if it considers, fit, may permit them to accept fees for such work.

[Government of India, Industries and Labour Deptt. Letter no. 13029, dated 26-2-1934]

Rule made by the Governor-General in Council under Fundamental Rule 46-A.

Unless the Governor-General in Council by special order otherwise directs, no portion of any fee received by a medical officer in civil employ for services other than professional attendance shall be credited to general revenues.

Rule made by the local Government under rules 41 and 44 (d) if the Civil Services (Classification, Control and Appeal) Rules.

The above rule also applies to medical officers of the Madhya Pradesh Provincial and Subordinate Services.

Powers to frame rules regarding grant of honoraria.

F.R. 47. Subject to the provisions of the rules made by the Governor-General in Council under rule 46-A a local Government may make rules prescribing the conditions and limits subject to which authorities subordinate to it may sanction the grant or acceptance of honoraria, and the acceptance of fees, other than the acceptance of fees by medical officers in civil employ for professional attendance.

N.B.- See G.I.O. below Fundamental Rule 46.

General rules.

S.R. 1. Subject to the provisions of Supplementary Rules 2 to 8 below, a competent authority may sanction the grant of an honorarium to a Government servant under his administrative control or the acceptance by such a Government servant of an



honorarium or fee. No Government servant may accept an honorarium or a fee without such sanction.

S.R. 2. A Government servant may not, without the previous sanction of the local Government undertake any work not connected with his public duties for which a fee is offered.

Sanction required to undertaking work.

Exception 1.- The Director of Public Instructions, Inspectors of Schools or Principals of Colleges, as the case may be, may permit members of the teaching staff employed in Government Schools and Colleges under their control to take up private tuition of individual students, provided that they have the power to sanction the acceptance of fees for the tuition work under item 73 and 73-A in Appendix II, part II.

The Director of Public Instructions may also permit the above-mentioned officers to undertake tuition work in private institutions, provided that the fees payable for the tuition work are within his powers of sanction (vide item 73 in Appendix II, Part II).

Exception 2 - The Director of Public Instructions may permit the Government servants under his control to undertake the preparation of text books for use by pupils or teachers subject to the condition that the author disposes of the book for a lump sum not exceeding Rs. 1,500 in each case (vide serial no. 73-C, Appendix II, Part II) and retains no interest in the sale of the book.

¹⁷
[**Exception 2-A.-** The Director of Technical Education may permit the Government servants under his control to undertake the preparation of books for use by pupils or teachers subject to the condition that the author disposes of the book for a lump sum not exceeding Rs. 1,500 in each case (vide serial No. 73-C, Appendix II, Part II) and retains no interest in the sale of the book.]

Exception 3. - The Director of Veterinary Services may permit officers of his department to undertake the supervision of

¹⁷ Inserted by F.D. Notification No. 886-506-IV-R-II, dated 5-5-1967.



slaughter houses and to accept fees therefor from the funds of the local bodies subject to the following conditions:-

(1) that the work is undertaken outside Government hours and that it does not interfere with the legitimate duties of the department; and

(2) that the total fee offered for the work does not exceed Rs. 25 per mensem.

Examination work
for which fee or is
offered.

Exception 4. - In the following cases no sanction is required either for undertaking the work or accepting a fee therefor:-

(i) Literary work of an occasional character and research work.

¹⁸
[(ii) Review of books for use as Library Books and Prize Books in schools, and periodicals and magazines for use in school received for approval from publishers.]

¹⁹
[(iii) Examination work on behalf of Government of India or any State Government or any University/ Board of Education constituted under any Statute or by any State Government or Government of India.]

²⁰
[**Note.-** The examinations conducted by the Madhya Pradesh.Nurses Registration Council are covered by the above items]

Expert evidence
and commission.

Exception 5. - A Government servant called upon by a court of law to act as a Commissioner, or to give evidence on technical matters may comply with the request, provided that the case is not of such a nature as will be likely to come before him in the course of his official duties. He may also accept such fees as

¹⁸ Inserted by F.D. Notification No.886-506-IV-R-II-67, dated 5.5.67.

¹⁹ Insert ed by F.D. Notification No.1510-CR-105-IV-R-II, dated 5.4.61.

²⁰ Inserted by F.D. Notification No.5112-IV-R-III, dated 21.11.61.



are fixed by the court, provided he obtains the sanction of the head of department to the acceptance of the fees.

S.R. 3. No Government servant may act as an arbitrator in any case which is likely to come before him in any shape by virtue of any judicial or executive post which he may be holding.

Action as Arbitrator.

S.R. 4. When a Government servant of an educational service is permitted to receive fees for private tuition, the financial limit of the power of sanction accorded to a competent authority shall be considered to apply to the total amount of fees to be accepted by such Government servant during any particular scholastic term or vacation.

Limits of sanction of tuition fees.

²¹**[S.R. 5.** One third of the fee paid to a Government servant should ordinarily be credited to general revenues and the balance two-third paid to Government servant concerned]

Share creditable to general revenues.

Note.- (1) This rule does not apply to the acceptance of fee by medical officer in civil employ for services other than professional attendance. Such fees will be regulated by the orders issued under Fundamental Rule 46-A and those contained in Appendix XXXIV to the Madhya Pradesh Medical Manual.

(2) The rule is also not applicable in the cases covered by exceptions (1) to (4) and (5) below Supplementary Rule 2, provided that when a Government servant of the Survey and Settlement and Land Records Department is permitted to receive fees for the execution of a commission during the time which would otherwise be spent in the performance of official duties, a sum equal to his pay including good conduct allowance, conveyance allowance and dear district allowance, where admissible and that of any other Government servant who accompanies him for the number of days spent in travelling and executing the commission shall be credited to general revenues.

²¹Inserted by F.D. Notification No.F.B> 1-75-R-IV-, dated 11.11.75 effective from 1.10.75.



(3) Officers of the Education Department who are permitted to receive a fee of Rs. 25 for the inspection of each State High School in the Bastar, Kanker, Khairagarh, Korea, Nandgaon, Raigarh and Surguja States will not be required to credit any portion of it to provincial revenues.

[Education Dept. Endorsement No. 1624-Estt, dated 15-10-42].

(4) The rule is not applicable in the case of fees received under the existing convention when the services of a Government servant are lent by one Government to another for a short period [c.f. para 3 of State Government Order (ii-A) under direction 2 in Section I of Appendix II, Financial Rules, Volume II.]

[Finance Department (R) File No. 13-18 of 1950]

Condition of
sanction of
honorary.

S.R. 6. An honorarium shall not be granted for all round good work falling within the scope of the ordinary duties of the Government servant performing it, however, outstanding its quality.

Notes.- (1) Temporary increase in work, e.g. on account of the holding of special departmental conferences or in connection with inter-departmental committees are normal incidents of Government service and therefore form part of the legitimate duties of Government servants. Those so employed have therefore no claim to extra remuneration.

(2) ²² [Deleted]

Examination work
for which
Honorary is
granted.

S.R. 7. The work in connection with the following examination for which definite rates of remuneration have been prescribed may be undertaken and an honorarium drawn without special sanction:-

(a) High School Certificate Examination held by the Madhya Pradesh Board of High School Education;

²² Inserted by F.D. Notification No. F.B.1-1-76-R-II-IV, dated 27-1-1976.



- (b) Vernacular Teacher's Certificate Examination (Men and Women);
- (c) Secondary Grade Women's Howbagh (Jabalpur) Training College Examination;
- (d) Final Examination of different courses of the Government Engineering School, Nagpur;
- (e) Shorthand and Typewriting Examination; and
- (f) Examination held by Public Service Commission; and
- (g) Setting question and valuing answer books in connection with the examination held by the Posts and Telegraphs Department for recruitment to certain subordinate service. Provincial Government servants are not however permitted to undertake invigilation work in connection with this Examination.

[Education Dept. Memo. No. 692-Acd. S., dated 23-4-42]

S.R. 8. Except in those cases in which definite rates of remuneration have been prescribed the amount of an honorarium or fee must be fixed with due regard to the value of the service in return for which it is given.

Amount how determined.

²³**F.R. 48.** Any Government servant is eligible to receive and except as otherwise provided by a general or special order of the Governor to retain without special permission-

Additional remuneration, when permissible with sanction.

- (a) the premium awarded for any essay or plan in public competitions;
- (b) any reward offered for the arrest of a criminal or for information or special service in connection with administration of justice;

²³Substituted by F.D. Notification No. 648-3583-IV-R-II, dated 6.2.61.



- (c) any reward payable in accordance with the provisions of any Act or Regulation or Rules framed thereunder;
- (d) any reward sanctioned for services in connection with the administration of the excise laws; and
- (e) any fees payable to a Government servant for duties which he is required to perform in his official capacity under any special or local law or by order of Government.

F.R. 48-A.- A Government servant whose duties involve the carrying out of scientific or technical research shall not apply for or obtain, a patent for an invention made by such Government servant save with the permission of the local Government and in accordance with such conditions as the local Government may impose.

General instructions for regulating the grant of permission for the taking out of patents by Government servants whose duties involve the carrying out of scientific or technical research.

L.G.R. In these instructions -

- (1) "Inventor" means any Government servant whose duties involve carrying out of Scientific or Technical Research.
- (2) "Department" means the department of the Provincial Government incharge of any Research Organisation.
- (3) "Research Organisation" means any technical or scientific establishment under the Provincial Government where research work is carried out, and includes also an establishment where research work is carried out in addition to any other routine work.
- (4) "Secretary" means Secretary of the Commerce and Industry Department.

2. An inventor should not, without the previous permission of the Provincial Government employ a Patent Agent or disclose



the invention to any person otherwise than as provided in clause 4 or publish or join any person not connected with the invention in his application for a patent, or file a Complete Specification, or make any application for a patent in any Indian State or any other country.

Untill the Provincial Government make a decision under clause 18, the particulars about any invention disclosed by an inventor should be treated as confidential and deemed to belong to and held in trust for the Government.

3. Every inventor should if so ordered, do everything necessary for obtaining a patent whether in Indian Dominion or any other country under such conditions as may be prescribed by the Provincial Government.

4. Every inventor who evolves an invention should promptly disclose it to the Head of the Research Organisation where he is working.

5. Where an inventor discloses his invention to the Head of his Research Organisation, with or without a request for permission to file an application for a patent accompanied by a Provisional Specification, the Head of the Research Organisation should, through a secret communication, forward the information to the department concerned together with his remarks on-

- (i) the connection, if any, between the invention and the inventor's official duties;
- (ii) the extent to which the inventor has used the facilities provided at Government expenses;
- (iii) whether the results are of such a nature that they should be published instead of being patented;
- (iv) patenting the invention in foreign countries;
- (v) the estimated needs of the department concerned and the Government as a whole;



- (vi) the probable contribution to public welfare; and
- (vii) his recommendations, if any, as to further action deemed appropriate.

6. An inventor may file an application for a patent accompanied by a Provisional Specification after obtaining the permission of the Head of the Research Organisation where he is working:

Provided that in case the inventor is himself the Head of a Research Organisation he may file such application without obtaining previous permission of the Provincial Government.

7. The Provincial Government hereby authorise the Head of every Research Organisation to grant, in his discretion, to any inventor working under him, permission under Fundamental Rule 48-A to file an application for a patent accompanied by a Provisional Specification:

Provided that, where the Head of Research Organisation does not deem it fit to grant the permission, for instance, where the invention is likely to have utility for Defence purposes or for the department concerned, he should forward the papers to the department together concerned with his remarks.

8. Where an inventor desires to obtain permission in accordance with clause 6, his request to the Head of his Organisation should be made on the prescribed form, shown in Appendix A, which should be filed in quadruplicate.

9. If the Head of a Research Organisation decides to grant the permission, he should sign all the four copies of the forms, return one copy to the inventor, retain one copy and forward the remaining two copies along with two copies of the Provisional Specification to the Department concerned.

10. If the request for permission is accompanied by a Complete Specification (which should be in duplicate) the Head of the Research Organisation should, through a secret communication,



forward the papers to the department concerned together with his remarks on points referred to under sub-paragraph (i) to (vii) in clause 5.

11. Upon receipt of a communication of an invention from the Head of the Research Organisation the department concerned should examine the case. If they consider that the results proposed to be patented are of such a nature that they should be published instead of being patented, they will refuse the inventor's request for permission to take out a patent. The department may take such steps as they consider expedient for publishing the invention, or for otherwise disposing of the invention. On receipt of intimation of such refusal, the inventor shall abandon his application for patent, if any, filed on the basis of a Provisional Specification. In all other cases the department concerned should, within 15 days of their receipt of the communication from the Research Organisation, forward the papers to the Secretary with their recommendations. While forwarding the papers to the Secretary the following documents should be supplied through a secret communication.-

- (i) if the invention was disclosed un accompanied by a request for permission to take out a patent, full particulars of the invention so disclosed;
- (ii) if an application has been made on the basis of a Provisional Specification, a copy each of the application and the Provisional Specification filed at the Patent Office; and
- (iii) if a request for permission has been made to take out a patent on the basis of a Complete Specification; a copy of the Complete Specification.

12. Upon receipt of the foregoing communication from the department concerned Government in the Commerce and Industry Department will consider whether the permission asked for under Fundamental Rule 48-A should be granted, with or without conditions.



13. If the Government are satisfied that the invention has not connection whatever with the inventor's official duties, or does not fall within a technical field of activity of the department concerned they will, if the inventor has applied for permission to take out a patent, grant him the permission under Fundamental Rule 48-A without any restriction.

14. If Government consider that the invention has been made in the course of the inventor's official duties or that the invention has resulted from facilities provided at Government's expense, they will decide whether an application for a patent should be made through the Controller of Patents and Designs on the basis of a Complete Specification.

15. If Government decide that an application for a patent should be made on the basis of a complete specification, the Secretary will, if necessary, obtain from the inventor further particulars required for the drafting of the Complete Specification, and take the necessary steps to prepare and file the Complete Specification within 9 months from the date of the Provisional Specification, if any. The application will be made in the name of the inventor, on the understanding that he will hold the patent in trust for the Provincial Government and will, in due course, assign his rights to the Provincial Government.

16. The Complete Specification and the drawings, if any, required for filing and prosecuting the applications for patents will be prepared by the Research Organisation when facilities exist for such purposes, and in other cases, by the Secretary, or by such agency as may be appointed by Government.

17. All fees up to the stage of acceptance in respect of every application prosecuted by the Secretary, will be borne by the Provincial Government.

18. On filling a complete specification Government in the Commerce and Industry Department will consider.-



- (i) whether the invention should be published for free use by public; or
- (ii) whether a patent should be taken out for exploitation by the Provincial Government; or
- (iii) whether the inventor should be allowed to take out a patent for his own benefit.

19. If the department concerned or Government in the Commerce and Industry Department decide that the invention should be published for free use by the public, they will refuse the Inventor's request, if any, for permission under Fundamental Rule 48-A and the Secretary will not prosecute the application for patent beyond the stage of its acceptance. In all such cases the Government in the Commerce and Industry Department on the advice of the department concerned will determine the *ex-gratia* payment, if any, and will advise the department concerned accordingly.

20. If Government in the Commerce and Industry Department decide to take out a patent for exploitation, the Secretary will proceed with the application, and on obtaining the patent, take the necessary steps to get the inventor's rights under the patent assigned to the Provincial Government.

21. In all cases where the Government in the Commerce and Industry Department decide to take out patents for exploitation, they will decide also the manner in which the patents should be exploited.

22. Inventions which the Government in the Commerce and Industry Department consider are of no interest to the Provincial Government either for commercial exploitation or publication for free use to the public, will be returned to the inventors, if they so desire, and they will be allowed to take out patents for their own benefit subject to.-



- (i) the reservation of the right of the Provincial Government to the use of the invention either without payment or on such terms as the Government may consider reasonable; and
- (ii) the condition that the inventor will not assign or deal with or grant licences to any person without obtaining the prior permission of the Government.



APPENDIX A

Request for permission to file an application for a patent accompanied by a Provisional Specification direct to the Patent Office.

(To be filled in quadruplicate)

I/We hereby request permission to file an application for an Indian Patent accompanied by a Provisional Specification in respect of(here give title of invention). In consideration of grant of such permission I/we agree and declare as follows:-

2. I/We declare that this invention has/had not been evolved in the case of my/our official duties and as a result of the research and facilities provided at Government expense.

3. Four copies of the Provisional Specification which it is proposed to forward to the Controller of Patents and Designs, Calcutta (or an equivalent description of the invention), accompany this request. Immediately after dispatching the application I/We will submit two extra copies of the documents forwarded to the Controller of Patents and Designs.

4. I/We wish to apply for a patent, in my/our name on the understanding I/We would hold the patent when granted, in trust for the Governor (hereinafter called Provincial Government) and will assign the same to the Provincial Government whenever called upon to do so.

5. I/We will, if so ordered, withdraw my/our application for a patent.

6. I/We will not file the Complete Specification in respect of this invention without the prior permission of the Provincial Government or in the manner as may be directed in the matter.

7. I/We will not apply for a patent in any other country or an Indian State in respect of this invention without the prior permission of the Provincial Government.



Date
Inventor's Signature, Designation
My/Our address for service in
the Dominion of India is
Permission granted.
Date Signature of the Head of the
Research Organisation, Designation.
Received one copy. Signature of Inventor or Inventors.
Date

[Govt. of the C.P. & Berar Commerce & Industry Dept. Memo
No.3984-1453-VII, dated 6-7-1948]

F.R.48-B.- If a question arises whether a Government servant is a Government servant to whom rule 48-A applies the decision of the local Government shall be final.

F.R. 48-C.- [Deleted].