

Government of Pakistan
Revenue Division
Federal Board of Revenue

Islamabad, the 11th March, 2019.

NOTIFICATION

S.R.O. 326(I)/2019.- In exercise of the powers conferred by section 61 of the *Benami Transactions (Prohibition) Act, 2017 (V of 2017)*, the Federal Government is pleased to make the following rules, namely:—

1. Short title and commencement.—(1) These rules shall be called the *Benami Transactions (Prohibition) Rules, 2019*.

(2) They shall come into force at once.

2. Definitions.—(1) In these rules, unless there is anything repugnant in the subject or context,-

(a) "Act" means the *Benami Transactions (Prohibition) Act, 2017 (V of 2017)*;

(b) "Chapter" means a Chapter of the Act; and

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

(2) Words and expressions used but not defined in these rules shall have the same meaning as assigned thereto in the *Trusts Act, 1882 (II of 1882)*, the *Succession Act, 1925 (XXXIX of 1925)*, the *Partnership Act, 1932 (IX of 1932)*, the *Income Tax Ordinance, 2001 (XLIX of 2001)*, the *Anti money Laundering Act, 2010 (VII of 2010)*, the *Act and the Companies Act, 2017 (XIX of 2017)*.

3. Jurisdiction of Administrator, Initiating Officer and Approving Authority under sub-section (2) of section 15.— (1) The Board may, by an order, assign any Commissioner Inland Revenue to exercise the powers and perform the functions of Approving Authority under the provisions of the Act and these rules.

(2) The Board may, by an order, assign any Deputy Commissioner Inland Revenue to exercise the powers and perform the functions of Initiating Officer under the provisions of the Act and these rules.

(3) The Board may, by an order, assign any Assistant Commissioner Inland Revenue to exercise the powers and perform the functions of Administrator under the provisions of the Act and these rules.

4. Determination of price in certain cases.—(1) For the purposes of sub-clause (b) of clause (15) of section 2, the price shall be determined in accordance with the provisions of section 68 of the Income Tax Ordinance, 2001 (XLIX of 2001) and rules made thereunder to the extent applicable under the Act.

5. Appointment of Chairperson and Members of Adjudicating Authority.— For the purposes of sub-section (4) of section 6, that Secretary Revenue Division shall forward to the Federal Government a panel of suitable officers who are qualified as per criteria provided for in sub-section (3) of section 6 and the Federal Government shall appoint from amongst the panel a Chairperson and as many Members as it may deem fit.

6. Terms and conditions of service of the Chairperson and members of the Adjudicating Authority.—(1) For the purposes of sub-section (1) of section 10, the Chairperson and Members of the Adjudicating Authority shall respectively be entitled to the pay, allowances and other benefits, specified in column (3) of the Table below, namely:—

TABLE

S. No.	Adjudicating Authority	Pay, allowances and other benefits
(1)	(2)	(3)
1	Chairperson	(a) pay, allowances and other benefits admissible prior to his appointment under rule 5 or the pay, allowances and other benefits admissible immediately before his retirement; and (b) Monthly adjudicating authority allowance of Rs. 300,000.
2	Members	(a) pay and allowances admissible prior to their appointment under rule 5 or the pay, allowances, and other benefits admissible immediately before retirement; and (b) Monthly adjudicating authority allowance of Rs. 200,000.

7. Provisional attachment.— For the purposes of sub-section (3) of section 22, the Initiating Officer shall provisionally attach any property in the manner provided for in Part II and Part III of Chapter XVI of the Income Tax Rules, 2002 and to the extent applicable under the Act.

8. Confiscation of property under sub-section (1) of section 25.— (1)

Where an order of confiscation of property under sub-section (1) of section 25 has been made, the Adjudicating Authority shall send a copy of the order to the Approving Authority.

(2) Where an order referred to in sub-rule (1) has been received by the Approving Authority in respect of any immovable property, he shall—

- (a) forthwith direct the Administrator to proceed to take any or all steps mentioned in this sub-rule;
- (b) issue notice to the concerned authority of the Federal Government or a provincial Government, or a local body or an authority or any person or officer who is responsible for recording the registration of any property or maintaining its record of ownership, as the case may be, having jurisdiction for the purposes of registration of such immovable property, intimating that the property has been confiscated under the Act; and
- (c) arrange to place copy of the notice at some conspicuous part of the immovable property for the benefit of general public mentioning clearly therein, in English and in vernacular language, that the property has been confiscated under the Act and vests absolutely in the Federal Government.

(3) Where an order referred to in sub-rule (1) has been received by the Approving Authority in respect of any movable property, he shall-

- (a) forthwith direct the Administrator to proceed to take any or all steps mentioned in this sub-rule;
- (b) forthwith issue a notice to the authority or person having the custody of such movable property informing that the property has been confiscated under the Act;
- (c) sell the property, if the property is liable to speedy and natural decay or the expenses for maintenance are likely to exceed its value, with the written approval of the concerned Adjudicating Authority and deposit the sale proceeds in the nearest Government Treasury or branch of the State Bank of Pakistan or

Federal Treasury or in any branch of National Bank of Pakistan in fixed deposit and retain the receipt thereof:

Provided that where owner of the property furnishes the fixed deposit receipt of State Bank of Pakistan or Federal Treasury or National Bank of Pakistan equivalent to the value of property in the name of Administrator, the Approving Authority may accept and retain such fixed deposit receipt as security:

Provided further that where the movable property is a mode of conveyance of any description, the Approving Authority, after obtaining its valuation report from the Motor Licensing Authority or any other authority, as the case may be, may accept and retain the fixed deposit receipt of the State Bank of Pakistan or the Federal Treasury or the National Bank of Pakistan, equivalent to the value of the movable property as security in the name of Administrator:

- (d) cause to deposit the property consisting of cash, Government or other securities or bullion or jewellery or other valuables in a locker in the name of the Administrator or in the form of fixed deposit, as the case may be, in the State Bank of Pakistan or in any branch of the National Bank of Pakistan, and retain the receipt thereof;
- (e) cause to get the property in the form of shares, debentures, units of collective investment schemes or instruments to be transferred in favour of Administrator; and
- (f) issue a direction to the bank or financial institution, as the case may be, to transfer and credit the money to the account of the Administrator, where the property is in the form of cash in a bank or a financial institution.

9. Receipt of confiscated property under sub-section (1) of section 26.— (1) The Administrator shall, at the time of receiving the confiscated property, ensure proper identification of such property with reference to its particulars mentioned in the order made under sub-section (1) of section 22.

(2) The Administrator may, with approval of the Approving Authority establish one or more warehouses for safe keeping of attached and confiscated movable properties.

10. Management of confiscated property under sub-section (1) of section 26.— (1) Where the property confiscated is of such a nature that its removal from the place of attachment is impracticable or its removal involves expenditure out of proportion to the value of the property, the Administrator shall arrange for proper maintenance and custody of the property at the place of its attachment.

(2) If the property confiscated consists of cash, Government or other securities, bullion, jewellery or other valuables, the Administrator shall cause to deposit them for safe custody in the nearest Government Treasury or a branch of the National Bank of Pakistan or the State Bank of Pakistan.

(3) The Administrator shall maintain a register for recording details in respect of moveable property, such as cash, Government's or other securities, bullion, jewellery or other valuables in the form as specified in Part-I of the First Schedule to these rules.

(4) The Administrator shall obtain a receipt from the Treasury or the bank, as the case may be, against the deposit of moveable properties specified in sub-rule (2).

(5) The Administrator shall maintain in respect of immovable property a register containing the details in the form as specified in Part-II of the First Schedule to these rules.

11. Disposal of confiscated property under sub-section (3) of section 26.— Where the Federal Government directs that the property vested in it under sub-section (3) of section 25 be disposed of under sub-section (3) of section 26, the Administrator shall arrange to dispose of the property in the manner as provided in Part II and Part III of Chapter XVI of the Income Tax Rules, 2002 to the extent applicable under the Act.

12. Appeals to the Federal Appellate Tribunal.— (1) An appeal to the Federal Appellate Tribunal under sub-section (1) of section 44 shall be filed in the form as specified in Part-III of the First Schedule to these rules.

(2) The form under sub-rule (1) shall be accompanied by a fee of one thousand Rupees.

(3) The form under sub-rule (1) shall set forth concisely and under distinct head the grounds of objection to the order appealed against and such grounds shall be numbered consecutively and shall specify the address of service at which notice or other processes of the Federal Appellate Tribunal may be served on the appellant and the date on which the order appealed against was served on the appellant.

(4) Where the appeal is preferred after expiry of the period of forty-five days referred to in sub-section (1) of section 44, it shall be accompanied by a petition, in quadruplicate, duly verified and supported by the documents, if any, relied upon by the appellant, showing cause as to how the appellant had been prevented from preferring the appeal within the period of forty-five days.

13. Terms and conditions of service of the Chairperson and members of Federal Appellate Tribunal.—(1) For the purposes of sub-section (1) of section 31 of the Act, the Chairperson and Members of the Federal Appellate Tribunal shall respectively be entitled to the pay, allowance and other benefits specified in column (3) of the Table below, namely:—

TABLE

S. No.	Chairperson and Members	Pay, allowances and other benefits
(1)	(2)	(3)
1	Chairperson	(a) pay, allowances and other benefits admissible prior to his appointment as Chairperson; or pay, allowances and benefits admissible immediately before his retirement; and (b) Monthly Federal Appellate Tribunal allowance of Rs. 400,000
2	Members	(a) pay, allowances and other benefits admissible prior to their appointment as Member or pay, allowances and other benefits admissible immediately before their retirement; and (b) Monthly Federal Appellate Tribunal allowance of Rs. 300,000.

14. Removal of Chairperson and Members from office in certain circumstances.— (1) For the purposes of sub-section (2) of section 33, the Secretary, Law and Justice Division, in pursuance of approval of the Federal

Government, shall file a reference before the Chief Justice of the High Court for inquiry, against the Chairperson and Members, whether or not suspended, on charges as specified under sub-section (1) of section 33 of the Act.

(2) The reference under sub-rule (1) shall be filed before the Chief Justice in whose territorial jurisdiction the Chairperson and Members of the bench, whether or not suspended, are seated.

(3) The Chief Justice of the High Court, after receipt of the reference filed, shall inform the Chairperson and the Members, whether or not suspended, of the charges leveled against them and seek their written defense. The Chief Justice of the High Court may seek further explanations and may hear in person the Chairperson and the Members before submission of the inquiry report.

(4) The Chief Justice of the High Court shall conclude the inquiry and transmit a report thereon to the Federal Government, through Secretary, Law and Justice Division, within sixty days from the receipt of the reference.

15. Staff of Federal Appellate Tribunal.—(1) For the purposes of sub-section (3) of section 37 of the Act, the officers and employees of the Federal Appellate Tribunal shall be entitled to such salaries and allowances as civil servants of the Federal Government of the same basic pay scales and status are entitled to.

16. Reward for whistleblowers.— (1) For the purpose of reward, the provisions of the Inland Revenue Reward Rules, 2016 except as specified in these rules shall *mutatis mutandis* apply.

(2) The amount of reward as specified in column (2) of the Table below, relating to detection and confiscation of *benami* property to the extent specified in column (1) of the said Table, shall be admissible, namely:-

TABLE

S. No.	Price of benami property determined under rule (3)	Amount of reward
(1)	(2)	(3)
1	Rs. 2,000,000 or less	Five percent of the price of <i>benami</i> property
2	More than Rs. 2,000,000 but not more than Rs. 5,000,000	Rs. 100,000 plus four percent of the price of <i>benami</i> property in excess of Rs. 2,000,000
3	Over Rs. 5,000,000	Rs. 220,000 plus three percent of the price of <i>benami</i> property in excess of Rs. 5,000,000

(3) The amount of reward shall be sanctioned after confiscation of the *benami* property under section 25.

FIRST SCHEDULE

PART-I

[see rule 10 (3)]

MANAGEMENT OF CONFISCATED PROPERTY REGISTER (MOVABLE)

1. Order number:
2. Date of receipt of properties:
3. Description of properties (quantity, amount, estimated value):
4. Name and address of the *benamidar* and beneficial owner, if his identity is known:
5. Name and address of the Treasury or bank where the properties are deposited for safe custody:
6. Date and time of deposit of confiscated properties in the Treasury or bank:
7. Receipt number with date of the receipt obtained from the Treasury or bank:
8. Remarks of the Administrator:
(Signature of the Administrator)
Name of the Administrator
Date:
(Seal)

PART-II

[see rule 10(5)]

MANAGEMENT OF CONFISCATED PROPERTY REGISTER (IMMOVABLE)

1. Order Number:
2. Date of receipt of properties:
3. Description of properties:
(In case of land:- area, survey number, plot number, location and complete address. In case of building: house number, location and complete address)
4. Name and address of the *benamidar* and beneficial owner, if his identity is known:
5. Remarks of the Administrator:
(Signature of the Administrator)
Name of the Administrator
Date:
(Seal)

PART-III

[see rule 12(1)]

Form of appeal to the Federal Appellate Tribunal

under section 44 of the *Benami* Transactions (Prohibition) Act, 2017

From _____

(Mention name and address of the appellant here).

To

The Registrar,
Federal Appellate Tribunal
(Address)

Sir,

The above-named appellant, hereby prefers this appeal under section 44 of the *Benami* Transactions (Prohibition) Act, 2017 against order Number _____ dated _____ passed by the Adjudicating Authority (address of Adjudicating Authority) under the said Act on the following facts and grounds.

FACTS

(Mention briefly the facts of the case here. Enclose copy of the order passed by the or Adjudicating Authority and copies of other relevant documents, if any.)

GROUND

(Mention here the grounds on which appeal is preferred).

PRAYER

In the light of what is stated above, the appellant prays for the following relief:-

RELIEF SOUGHT

(Specify the relief sought)

DECLARATION

The fee payable for this appeal as mentioned in sub-rule (2) of rule has been deposited in the form of demand draft with the Registrar, Federal Appellate Tribunal,

(Address)

(Signature of the Appellant) vide receipt number _____ dated _____.

(Name of the Appellant)

VERIFICATION

I..... the appellant, do hereby declare that the facts stated above are true to the best of my information and belief.

Verified today the day of

(Signature of the Appellant)


(Name of the Appellant)

List of documents:

Place:

Date:

[F.No.1(15) R & S /2017]


(Dr. Hamid Ateeq Sarwar)
Member (IR Policy)/
Additional Secretary