

DIVISION 5
INDIAN FOREIGN SERVICE (IFS)

48. THE INDIAN FOREIGN SERVICE (CONDUCT AND DISCIPLINE) RULES, 1961¹

In exercise of the powers conferred by the proviso to Article 309 of the Constitution, the President hereby makes the following rules, namely :

CHAPTER I

Preliminary

1. **Short title and commencement.**—(1) These rules may be called the Indian Foreign Service (Conduct and Discipline) Rules, 1961.

(2) They shall come into force on the 1st day of April, 1962.

2. **Application.**—These rules shall apply to all members of the Service.

3. **Definitions.**—In these rules, unless the context otherwise requires,—

(a) "Government" means the Central Government;

(b) "member of the Service" means any officer holding a post borne on the cadre of the service and includes a non-career Head of Mission or post;

(c) "Service" means the Indian Foreign Branch A and Branch B.

CHAPTER II

Conduct Rules

²[4. **Provisions of Civil Services (Conduct) Rules, 1955, to apply to member of Service.**—(1) Subject to the provisions of sub-rule (2), the Central Civil Services (Conduct) Rules, 1964 (hereinafter in these rules referred to as "the said rules") shall apply *mutatis mutandis* to members of the Service.

(2)(a) Rule 8 of the said rules shall apply subject to the provisions of Rule 18 of these rules;

(b) Rules of the said rules shall apply as if :

(i) for the words "the Government or of the prescribed authority" occurring in that rule, the words "the Government or of the Head of Mission or post" were substituted;

(ii) the following note was inserted at the end, namely :

"Note.—The Head of Mission or Post, as the case may be, shall report all cases arising under this rule to the Government for such action as the Government may deem fit."

1. Noti. No. 780GA/61, dated 15th December, 1961.

2. Subs. by Ministry of External Affairs Noti. No. 50/6A/66, dated 6.8.1965.

(c) Rule 13 of the said rules shall apply as if,—

(i) In the explanation to sub-rule (1) of that rule, for the words “free transport, boarding, lodging or other service or any other pecuniary advantage when provided by any person other than a near relative or personal friend having no official dealing with the Government servant” the words “a free transport, boarding, lodging or any other form of passage or service or any other benefit or pecuniary advantage rendered without cost or markedly below the normal market rate” were substituted:

(ii) after sub-rule (4) of the rule, the following sub-rule was inserted, namely :

(5) Where any member of the service receives gift from a foreigner, then notwithstanding anything contained in sub-rules (2), (3) and (4), such members shall make a report to, or obtain the sanction of the Government as required by the said sub-rules in all cases where the value of such gift exceed Rs. 300.

(d) Rule 14 of the said rules shall not apply to entertainments given and complementary or valedictory addresses presented, to the members of the Service in the country in which they are stationed;

(e) Rule 18 of the said rules shall apply as if :

“(2) No member of the service shall, except with the previous sanction of the Government acquire or dispose of any immovable property abroad by lease, mortgage, purchase, sale gift or otherwise, either in his own name or in the name of any member of his family.

(4-A) Notwithstanding anything contained in sub-rules (1) and (4), the provisions of the said sub-rules shall apply in relation to non-career. Heads of Mission or post only with respect to property acquired or disposed of them during their tenure of office.”

5. Entering into certain transactions.—(1) It shall be lawful for a member of the Service to open a credit account with any reputable firm of tradesmen, provided that, he shall settle all accounts regularly and never permit them to become so accumulated as to be beyond his financial capacity.

(2) No member of the Service shall make purchases under hire purchase agreements without the previous sanction of the Government except in cases,—

(i) where the value of Rs. 10,000 or less, in each case; and

(ii) where the financial commitment, in each case, such as can be liquidated during his tenure of office in the country where such purchases are made.

(3) No member of the Service shall maintain or obtain an over-draft at or from a bank abroad except with the permission of the Government.

6. Foreign exchange.—Members of the Service shall be expected to observe, scrupulously the foreign exchange regulations of the Government of

India and of the Government of the country where they are posted, and of the Government of any other country where they may be permitted to operate bank accounts.

7. Restriction on certain activity.—(1) No member of the Service may at any time, engage in any activity which would in any way tend to impair his usefulness as a member of Service. In any case of doubt, the orders of the Government shall be obtained.

(2) A member of the Service shall be responsible to ensure that his spouse and dependents do not in any way have or engage in any activity that would embarrass Government or tend to impair his usefulness as a member of the Service.

1[8. Restriction on marriage with Foreigner.—(1) No member of the Service shall contract a marriage with any person other than an Indian citizen without the prior permission in writing of the Government.

(2) A member of the Service who intends to contract a marriage with a person other than an Indian citizen shall seek prior permission for the same by submitting a written application addressed to the Foreign Secretary to the Government of India in the Ministry of External Affairs giving details of the name, age, address, occupation and nationality of the person and the decision of the Government on the application shall be communicated to the applicant within a period of one year unless the Government, for reasons to be recorded in writing and communicated to the applicant within the said period, extend it :

Provided that no such period of extension shall exceed a period of one year from the date of expiry of the initial period of one year.

(3) If a member of the Service contracts marriage with a person other than an Indian citizen without obtaining prior written permission of the Government, he shall be liable to be removed from the Service.

(4) Government may refuse permission to a member of the Service to contract a marriage with a person other than an Indian citizen if it considers that the marriage, if permitted, may prejudicially effect the due and proper performance of the duties of the member of the Service, or the maintenance of friendly relations with a foreign State or in the public interest.

(5) Government may give the member of the Service an opportunity to show-cause to the contrary before permission is refused.

(6) In the event of a decision being taken to grant permission to member of the Service to contract a marriage with a person other than an Indian citizen, the Government may, stipulate such conditions as it may deem appropriate including the condition that the foreign spouse should acquire Indian citizenship within a reasonable period of time.]

9. Divorce.—If a member of the Service becomes involved in a matrimonial suit which may, in the opinion of the Government bring discredit upon that member or upon the Service, the Government may call upon him to resign. A member of the Service who becomes involved in a divorce suit shall notify the

Foreign Secretary to the Government of India in the Ministry of External Affairs of the facts of the case at the earliest moment possible.

¹[10. **Employment after retirement.**—No member of the Service who retires from the Service shall accept employment under a foreign Government or in an International Organisation of which India is not a member, for at least three years from the date of his retirement, except with the previous permission of Government.]

11. Employment of wife and other dependents.—(1) No member of the Service shall, while he is posted in an Indian Mission or Post abroad, permit his wife or husband, as the case may be, near relatives or any dependents to take up any employment in the country of his posting without first obtaining the prior permission of the Government or the Head of the Mission or Post, where the latter is authorised to grant such permission.

(2) The Government may specify the kind of employment which may be permitted to be taken up by such dependents and also lay down continuance which should be fulfilled for conditions in such employment.

12. Acquisition of foreign nationality.—The acquisition of foreign nationality by a member of the Service shall render him or her liable to immediate dismissal or removal from service.

13. Compliance with instructions.—A member of the service shall comply with all orders instructions, rules and regulations, that may have been or may be issued by the Government from time to time.

CHAPTER III

Discipline and Control

14. Discipline and Control.—Members of the Service shall, in respect of discipline and control, be governed by the Central Civil Services (Classification, Control and Appeal) Rules, 1957, as amended from time to time :

Provided that where any member of the Service is governed by any other rules in this regard immediately before the commencement of these rules by virtue of his former service, such member shall be governed by such other rules even after such commencement.

15. Service abroad.—(1) A member of the Service shall be liable, at the discretion of the Government, to serve at any place in the world.

(2) It shall entirely be within the discretion of the Government to decide whether any member of the Service shall serve abroad or in India and no member of the Service shall be entitled as of right to a post abroad or in India, as the case may be.

CHAPTER IV

Official Secrets and Custody of Official Documents

16. Official secrets.—(1) A member of the Service is expected to acquaint himself with the provisions of the Official Secrets Act, 1923, and of changes, made from time to time in laws relating to official secrets.

1. As amended by Ministry of External Affairs Noti. No. 42(GA) 793/965, dated 11.3.1967.

(2) Any offence under the Official Secrets Act, 1923, committed by the member of the Service may also be treated as a disciplinary offence, for which the member may be subjected to suitable penalties, irrespective of whether he is also prosecuted for the offence in a criminal Court.

Note 1.—The Official Secrets Act, 1923, applies to all documents or information which came into the possession, custody or knowledge of members of the Service. Any improper communication of documents of information, is a criminal offence, even if the communication is made to another person in the service of Government. It is also a criminal offence if a member of the Service fails to return official documents.

Note 2.—No definition has been given in the 'Official Secrets Act, 1923 of Official Document' and there is no rule given in the Act as to the burden of proof on the question of whether a document or information was 'entrusted in confidence'. So far as the criminal application of the Act is concerned it is for the Court to interpret it. Government shall, however, be free to decide what shall be deemed to be 'Official Documents', and what test shall be applied to determine whether information of documents are confidential.

(3) Negligence by a member of the Service in the custody, disposal or handling of official documents or in communicating confidential information and communication of confidential official documents or confidential improper official information in any manner, is a departmental offence.

(4) All information and documents falling within the categories specified below shall, for the purposes of these rules, be deemed to confidential and official, unless the Government otherwise decides and the onus of proof to show, in each case, that any such information or documents is not confidential or is not official will rest upon the member of the Service. In the case of information or documents not falling within the categories aforesaid, the question whether they are official or confidential will be decided by the Government according to the circumstances of each case :

- (a) All documents or correspondence (and copies thereof), relating to any matter of official concern to any branch of Government or and State Government and emanating from or addressed to,—
- (i) any Indian Diplomatic Mission or Consulate or Post;
 - (ii) any Ministry or other office of the Government of India or of any State Government;
 - (iii) any Department of any Government other than the Government of India;
 - (iv) any Diplomatic Mission or Consulate or Post other than an Indian Mission or Consulate;
 - (v) any person in the Service or any Diplomatic Missions, Consulates or Posts or Government Departments referred to in (i), (ii), (iii) and (iv) above.
- (b) All information relating to any matter of official concern to any branch of the Government of India or any State Government and

obtained orally or from documents or observation at any of the sources specified in (i), (ii), (iii), (iv) and (v) of clause (a).

Note 1.—Documents and correspondence are official and confidential under the rule in whatever form they may be addressed, *e.g.*, 'personal' 'private', *etc.*, it is, in fact, a common practice to send most secret information of most confidential instructions in a letter marked 'Personal' or both 'Private and Personal'. Similarly oral information may be official and confidential although it may have been given casually and in a non-official manner.

Note 2.—The enumeration in this rule is not exhaustive. Written or oral communication from non-official persons relating to matters of official concern may often be confidential official information and, if in writing official documents.

17. Return of official documents.—(1) Any failure by a member of the Service to return official documents where their retention is not permissible under orders of the Government issued from time to time or in any instance where their return is demanded is an offence which may render the officer liable to disciplinary proceedings.

Note.—Due care shall be taken to ensure that the provisions of all the rules for the custody and handing over of cypher documents are properly observed.

(2) Every member of the Service, when handing over charge of his post, shall ensure the handing over of all Top Secret and Confidential papers to his successor or to any other appropriate official, Heads of Mission of Post shall compile a list of all the papers so handed over and/or received and a copy of the list shall be sent to the Government for record, in accordance with Government orders on the subject issued from time to time.

18. Improper use of experience of members of Service.—(1) A member of Service shall not without the permission of the Government publish any book or article or give any public lecture or broadcast which is based in whole or in part upon his experience as a member of the Service or upon information obtained by him as a member of the Service, except as may be required of him in his official capacity.

Note.—A member of the Service publishing a book or article or other publication in his personal capacity shall normally be required to obtain the permission of the Government before authorising its publications. When granting permission, the Government may require the member of the Service to give an undertaking that the contents of the book will not embarrass the Government in its relations with any other Government.

(2) The reproduction of unpublished official documents (including memoranda prepared by a member of the Service himself in his official capacity or on official information) shall not be permitted except as may be required of the member of the Service in his official capacity.

(3) A member of the Service in publishing any book, lecture, or talk is any public lecture or broadcast talk (whether such book, lecture, or talk is or not based on his experience as a member of Service or upon information

obtained by him as a member of the service) shall not refer to, or permit any reference to be made to the position he holds or has held as a member of the Service, without the permission of the Head of the Mission or Post if he is acting in his official capacity and of the Government if he is acting in his personal capacity.

19. Ex-members of the Service.—Former members of the Service (including non-cadre Heads of Missions and Posts) shall remain subject to the provisions of the Indian Official Secrets Act, 1923 as regards all official documents and confidential information obtained by them while members of the Service.

20. Intimation regarding papers in possession on ceasing to be a member of the Service.—Whenever a member of the Service ceases to be such member, he shall inform the Foreign Secretary to the Government of India in the Ministry of External Affairs, of all papers in his possession which come or may reasonably be believed to come under any of the provisions of this Chapter. The Foreign Secretary may then give directions as to the future custody and disposal of such paper. Failure by a member of the Service to comply with the provisions of this rule or with the directions of the Foreign Secretary under it may be taken into account in fixing the amount of pension to be paid to the member.

Note.—A member of the Service may not, in his will, if any bequeath to any other personal papers which are covered by this Chapter, nor can he give any right to his executors or legatees to read secret papers which he could not show them in his life-time. Members of the Service should make arrangements to secure that, on their death, all papers which might come under the Chapter are delivered to the Foreign Secretary for examination and decision as to their custody and disposal.

¹[**21. Repeal and savings.**—Chapters XI, XII and XIII of the Indian Foreign Service Rules, 1954, are hereby repealed except as respect thing done or omitted to be done thereunder.]

1. Ins. by Noti. No. F. 16(6) GA/62, dated 3.12.1962.