

THE ASSAM AGRICULTURAL CREDIT OPERATIONS AND MISCELLANEOUS PROVISIONS (BANKS) RULES, 1978

No. Co-op. 38/77/91.

In exercise of the powers conferred by S.29 of the Assam Agricultural Credit Operations and Miscellaneous Provisions (Banks), Act, 1977 (Assam Act VII of 1977), the Governor of Assam is pleased to make the following rules, namely:

1. Short title and commencement.

(1) These rules may be called the Assam Agricultural Credit Operations and Miscellaneous Provisions (Banks) Rules, 1978.

(2) It shall come into force at once.

2. Definitions.

In these Rules, unless the context otherwise requires, -

- (a) "Act" means the Assam Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act, 1977.
- (b) "Department" means a Department of the State Government of Assam.
- (c) "Form" means a form appended to these Rules.
- (d) "Local body" means Gaon Panchayat, Mahkuma Parishads, Municipal Boards, Town Committees and the Gauhati Municipal Corporation and such other like body as to be established by law.
- (e) "Registrar" means a person appointed to perform the duties of a Registrar of Co-operative Societies under the Assam Co-operative Societies Act, 1949 (Act 1 of 1950).
- (f) "Section" means a section of the Act.

3. Registration of charge and mortgage.

- (1) On receipt of the declaration of charge or mortgage executed in the Form prescribed under S. 6 (1) and 6 (2) of the Act or of the mortgage deed executed under S.7 of the Act in Form 'A' appended to these Rules, the concerned credit agency shall retain one copy of such instrument with it and forward the second copy under

registered post with acknowledgment due to the Sub-Registrar within the local limits of whose jurisdiction the whole or any part of the property charged or mortgaged is situated, as referred to in S.9 (1), within 30 (thirty) days from the date of execution of the instrument.

(2) The Bank shall furnish the particulars of charge or mortgage in Form 'B' appended to these Rules created by the agriculturist in its favour to the Sub-Deputy Collector or any other Revenue Officer as may be designated by the State Government in whose jurisdiction the charge or mortgage is created as required under S.10 of the Act.

(3) On receipt of the particulars in Form 'B' of charge or mortgage, the Sub-Deputy Collector or any other Revenue Officer, as maybe designated by the State Government, shall maintain the Records-of-Rights relating to the land over which the charge or mortgage is created in Form 'B' appended to these Rules as required under S. 10 of the Act.

4. Reference of dispute to a Board.

(1) When the Registrar decides to refer a dispute to a Board for disposal as provided under sub-S. (1) of S.30, he shall constitute a Board by notification in the official Gazette which shall comprise of the Chairman

to be nominated by the Registrar and such member or members each to be nominated by each of the parties to dispute upon a notice from the Registrar within such time as he may direct.

- (2) In case of difference of opinion between two nominees, the Chairman's verdict shall prevail.
- (3) If a party fails to make a nomination within the appointed time, the Registrar may make the nomination himself.
- (4) If one of the nominees fails to attend or refuses to work as nominee, the remaining nominees shall refer the fact to the Registrar who shall cancel the nomination and may either—
 - (a) constitute a new Board; or
 - (b) appoint only one nominee; or
 - (c) decide the case himself by making the award in the manner as provided in Rr. 11 and 12.

5. Appointment of nominees by Registrar.

The Registrar may make nomination from the following:

- (i) Officers of the Co-operative Department;

- (ii) Officers of any other Department or Bank;
- (iii) members of any local body;
- (iv) any other person with the approval of the Government.

6. Expenses in determining the dispute.

- (a) The expenses incurred in determining the dispute may include remuneration of the nominees and incidental expenditure for stationary and clerical assistance.
- (b) Remuneration to nominees may be paid in such sums as the Registrar may think fit in accordance with general or specific instruction of Government.
- (c) The expenses incurred in determining the dispute shall be deposited before the proceedings of the Board begin by the parties with the Registrar in such manner as he may direct.

7. Power to order payment of expenses.

The Registrar shall have power to order expenses incurred in determining the disputes to be paid by the parties to the dispute.

8. Procedure for reference of dispute to Registrar.

A reference to the Registrar of any dispute under S. 19 shall be in writing and shall be accompanied by—

- (a) statement of the subject matter of the dispute referred to in Form D;
- (b) statement of the claims in form 'E';
- (c) copy of the Ledger Account;
- (d) other supporting records.

9. Court-fee stamp for reference.

Every application for reference of a dispute to the Registrar under S. 18 shall bear court-fees stamp appropriate as for a miscellaneous petition unless the Registrar permits otherwise.

10. Procedure for hearing of dispute.

- (1) In every dispute, the Registrar or his nominee or the Board of Nominees appointed under Sub-S. (1) of S. 20 shall fix the date, hours and the place of hearing of the dispute and issue notices to the parties concerned in Form 'F'.

- (2) The nominees may issue summons or notices at least fifteen days before the date fixed for hearing of the dispute requiring-
 - (a) attendance of the parties and the witnesses;
 - (b) production of all books and documents relating to the matter in dispute.
- (3) Notices may be served in any of the following manners:
 - (a) personal service;
 - (b) registered post with acknowledgment due; or
 - (c) affixing a copy of the notice at the last known place of residence or business of the parties in dispute.
- (4)
 - (i) Service of notice on the Chairman, the Secretary or the Principal, Executive Officer of a Co-operative Society by whatever designation called shall be regarded as service on that society.
 - (ii) Service of notice on the Manager or the Accountant of a bank shall be regarded as service on that bank.

- (5) The sufficiency of service of notice shall be decided by the authority issuing it and his decision shall be final.
- (6) In the case of absence of any party to the dispute, the dispute may be decided *ex-parte*.
- (7) In these proceedings, neither party shall be represented by any legal practitioner.

11. Recording of decision proceedings by Board of Nominees.

The nominee or Board of Nominees appointed by the Registrar deciding the dispute shall record a brief note of the proceedings together with a memorandum of the statement of the parties who attend and of such witnesses as are examined, and upon evidence so recorded and after consideration of documentary evidence produced by the parties, shall give a decision in writing in accordance with justice, equity and good conscience and communicate it to the Registrar.

12. Power of Registrar in matters of dispute of decision.

The Registrar may accept the decision of the nominee or Board of Nominees or may remit it to another nominee or Board of Nominees for further enquiry, if the Registrar is of opinion that the decision arrived at is not based on justice, equity and good conscience.

FORM 'A'

Form of Mortgage Deed

[Rule 3 (1)]

This deed of mortgage is made on this.....day ofone thousand nine hundred and.....Anno Domini between.....son of.....residing at.....(hereinafter called the "mortgagor" which expression, unless excluded by or repugnant to the context shall include his heirs, executors, administrators, legal representatives and assign) of the one part and the.....Bank Ltd. (hereinafter called the "mortgage" which expression, unless excluded by or repugnant to the context, shall include its successors and assigns) of the other part.

Whereas the mortgagor being in need of finance for the purpose of.....has applied to the mortgage for a loan accommodation of Rs.

.....(Rs.....) on the securities described in the schedule hereto annexed and on the terms and conditions herein mentioned, and whereas the mortgage has agreed to grant such loan to the mortgagor in consideration of repayment of such sum with interest thereon at the rate hereinafter mentioned, being secured in the manner hereinafter appearing;

Now this deed of mortgage witnesseth as follows:

- 1.** The mortgagor hereby mortgages to the mortgagee by simple mortgage the plot/plots or land described in the schedule hereto attached together with its/their/appurtenance as security for the sum of Rs.....(Rs.....) paid to the mortgagor (the receipt whereof the said mortgagor hereby acknowledges) in the manner herein mentioned, together with interest accruing thereon, and other charges incidental to the disbursement and recovery thereof.
- 2.** That the loan will be repaid within.....years in annual equal instalments, the first instalment within.....year/years of the drawal of the loan. Annual instalments shall be paid on or before.....every year.
- 3.** The amount hereby borrowed shall bear interest at the rate of Rs per cent per annum from the date of availing of the loan or any part thereof till the date of final satisfaction of the loan account: Provided however, that it shall be lawful for the mortgagee at any time by notice in writing addressed to the mortgagor to change the rate of interest payable under these presents and consequently to change the amount of instalments payable by the mortgagor to the mortgagee under these presents.

The annual payment shall be made on or before the date fixed for the purpose by the mortgagor in each year. If any instalment of principal or interest is not paid on or before the

due date, the mortgagor shall pay penal interest @p.a. when the mortgagor is so in default or when the loan is closed under rules of the aforesaid Bank, the mortgagee shall be entitled to call in the loan without reference to the period for which loan has been granted and recover the entire amount outstanding with interest at.....per cent per annum from the date of closing of the loan account to the date of recovery together with charges hereinbefore referred to and the mortgagee shall be entitled to take possession of the land for such time not exceeding the years for which loan was granted and enjoy the rent and profits arising therefrom and apply the same in or towards satisfaction of the loan hereby made.

- 4.** The mortgagee shall have all legal rights on the property of the mortgagor as mortgagee has per this Deed until the loan with interest is repaid in full.
- 5.** The entire amount of the loan shall be solely devoted to the aforesaid purposes for which it is taken and duly authorised officers of the financing Banks, shall have unfettered right to enquire about and look into the actual utilisation of the loan by the borrower from time to time and demand repayment of the instalments as and when they fall due.
- 6.** In case of misappropriation of the loan by the mortgagor the mortgagee shall have the right to demand repayment of the entire loan or any part lying due at the time whether it is due or not according to the stipulation herein contained.

- 7.** All instalments shall be repayable on due dates. In case of default of any instalment, recovery of such instalment or part thereof, and in case of default of payment of mortgage money or any part, the entire balance of the loan with interest shall fall due.
- 8.** That the mortgagee shall have the right to transfer or assign all its rights conferred by this Deed including the securities hereby offered to any other Bank or person for any reason whatever so even without any separate letter of consent and the mortgagor shall be bound to such transferee or assignee in the same way and to the same extent as to the mortgagee.
- 9.** That in consideration aforesaid and in further pursuance of this agreement, the mortgagor does hereby convey to the mortgagee by way of simple mortgage all these properties described in the schedule below belonging to him which are free from all encumbrances to the intent that the properties hereby mortgaged shall remain and be charged with due repayment of the loan with all interest and costs.
- 10.** The mortgagor hereby declares that the property mortgaged is free from encumbrances. If for any reason litigation ensues concerning the property mortgaged and the mortgagee suffers and loss thereby, the mortgagor covenants with mortgagee that he will not only made good the loss but also render all help necessary in regard to the safeguarding of the property mortgaged.

- 11.** The mortgagor hereby further covenants with the mortgagee that he will not alienate the mortgaged property either by sale, gift, subsequent mortgage or otherwise, without the previous consent in writing of the mortgagee. If any such alienation is made, the mortgagee shall be at liberty to demand repayment of the loan and recover the entire outstanding loan without reference to the period for which the loan is given with interest @ Rs.....per cent per annum from the date of demand till the date of payment together with the charges hereinbefore referred to.
- 12.** The mortgagor further covenants that he will regularly pay rent/revenue due to landlord/Government on the property mortgaged.
- 13.** These presents shall be a security not only for the money herein-before expressed to be secured but also for any other money that now are or may hereafter become due to the mortgagee from the mortgagor on any account whatsoever.
- 14.** In case of default in payment of the loan in accordance with the terms herein contained, the mortgagee or its transferee or assignee shall have the right to bring the mortgaged property to sale without the intervention of the court and to enforce its or his remedies against other movable and immovable assets of mortgagor in case the sale proceeds of the properties hereby mortgaged are not sufficient or

rendered unfit for sale to liquidate the entire loan with interest and cost.

- 15.** On repayment of the amount due to the mortgagee under this Deed, the mortgagee at the request of the mortgagor shall issue to the mortgagor a certificate of complete discharge.

Schedule of mortgaged properties

Name of village/ mouza	Patta No.	Dag No.	Description of property	Approximate value	Name of owner	Remarks

In witness whereof, the mortgagor does herein to set his hand on the day of the year mentioned at the outset.

Witness	Address in full	Mortgagor
1.		
2.		
3.		
4.		

Duly executed in our presence

Manager

Any other Bank official

.....

.....

FORM 'B'

[Rule 3 (2)]

To

The S.D.C. /other Revenue Officer.....Circle.

Dear Sir,

Whereas Sri (Name and address of loanee).....a borrower of our Bank has availed loan of Rs.....(Rupees.....) from our bank against charge/mortgage of crop/property detailed below; I/We hereby forward to you the particulars in this regard for your recording the same in the Record-of-Rights under S.10 of the Assam Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act, 1977 (Assam Act VII of 1977):

1. Name of Borrower
2. Father's name
3. Dag No.
4. Patta No.

5. Village
6. Mauza
7. Sub-division
8. District
9. Name of owner
10. Whether charged or mortgaged
11. Approximate value of crop/land
12. Prior encumbrances, if any
13. Remarks

Yours sincerely,

Manager

FORM 'D'

[Rule 9(ix)]

Ref. No.

In the office the Registrar of Co-operative Societies, Assam.

The humble petition of the of
District P.O.

2. We, the hereby beg to report that a dispute exists between us on the one side and thenamed in the annexed Form "E" on the other side. The said other party have taken a loan of Rs..... and have defaulted payment and refused to pay either principal or interest/the amount due and makes/make excuses.

3. But we, theare satisfied that he/they is/are in a position to pay and therefore, we request you to make an award against the said other party.

Dated at

The.....day of

Seal

Signature of the applicant

FORM 'E'
[Rule 9 (b)]

Statement showing the disputed claims of
Against referred to the Registrar of
Co-operative Societies, Assam for settlement under
Reference/Application No dated.....

1	2	3	Original advance			7	Total repayment to the date to which the account is drawn		Balance of amount now due and claimed		12	13
			4	5	6		8	9	10	11		
Serial No.	Full name of the Co-op. Society complained	Name of Society and Sureties, if any	Date of issue	Amount	Rate of interest	Date or dates on which repayments fall due	Principal	Interest	Principal	Interest	Date to which accounts drawn	Remarks (details regarding demand made)

Signature of applicant

FORM 'F'

[Rule 11]

Notice is hereby given in the name of members of the Society and his security

2. Whereas the Committee members of the.....Society have applied to the Registrar, that a sum of Rs.....(Rupees.....) only on account of principaland Rs.....(Rupees.....) only as interest has been due from you which you did not pay on the date it fell due to the society in spite of demand;
3. I do hereby give notice that within one month of the receipt of this notice you should show cause by a registered letter why a decision would not be given in favour of the Society against you.
4. Take notice that in the event of the claim not being contested, a decision shall be given *ex parte*.

Given under my hand and the seal of my office at this.....day of 19.....

SEAL

Signature