

# **The Punjab Agricultural Credit Operations and Miscellaneous Provisions (Banks) Rules, 1979**

PUNJAB

India

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### **Rule**

### **THE-PUNJAB-AGRICULTURAL-CREDIT-OPERATIONS-AND-MISCELLANEOUS-PROVISIONS (BANKS) RULES, 1979**

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The Punjab Agricultural Credit Operations and Miscellaneous Provisions (Banks) Rules, 1979  
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## **Chapter I**

Preliminary

### **1. Short title.**

- These rules may be called the Punjab Agricultural Credit Operations and Miscellaneous Provisions (Banks) Rules, 1979.

### **2. Definitions.**

- In these rules, unless the context otherwise requires, -(a)"Act" means the Punjab Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act, 1978 (Punjab Act No. 5 of 1979);(b)"designated officer" means an officer designated by the State Government under sub-section (5) of section 3;(c)"prescribed authority" means an official of the State Government notified as such by the State Government under sub-section (1) of section 8;(d)"Form" means a form appended to these rules;(e)"section" means a section of the Act.

## **Chapter II**

### **Distrain and Sale of Movables**

#### **3. Action to be taken by the bank prior to the making of application referred to in rule 4.**

- If an agriculturist fails to repay to the bank, the whole or part of the financial assistance obtained by him on or before the due date, the bank shall serve him or his heir or legal representative with at least fifteen days clear notice, informing him that if he fails to pay the amount due within the period specified in the notice, the crops or other produce or movables charged to the Bank to the extent of the agriculturist's interest therein (hereinafter referred to as the property charged) shall be distrained and sold through the designated officer.

#### **4. Application by bank for distraint.**

(1) On the agriculturist failing to make the payment of moneys due to the bank within the period specified in the notice under rule 3, the bank may apply to the designated officer within whose jurisdiction the agriculturist resides or holds the property for distraint and sale of the property. (2) Every application under sub-rule (1) shall be in Form "A". (3) A copy of the document creating the charge duly certified by an officer of the bank authorised by it in this behalf shall be filed along with the application referred to in sub-rule (1).

#### **5. Notice of demand.**

- If the designated officer is satisfied that the application is in order, he shall cause to be served on the agriculturist or his heir or legal representative a written notice of demand in Form "B" calling upon him to pay the sum specified in the notice within fifteen days from the date of service thereof, or to show cause, why the property charged be not distrained and sold.

#### **6. Mode of service of notice.**

- The notices referred to in rules 3 and 5 shall be served by delivering a copy to the agriculturist or his heir or legal representative or to any adult male member of his family at his usual place of residence or to his authorised agent, or when such service cannot be effected, by affixing a copy of the notice on some conspicuous part of his residence.

#### **7. Procedure where no cause is shown against distraint.**

- If the amount specified in the notice referred to in rule 5 is not paid within the time allowed therefor, or if no cause is shown, or where cause shown is considered by the designated officer to be insufficient, he shall distrain the property charged.

## **8. Custody of distrained property.**

- The designated officer shall make proper arrangements for custody and preservation of the distrained property during the interval between distraint and sale thereof. The applicant or any officer of the bank concerned, if so authorised by the applicant, shall if required by the designated officer, undertake the custody and preservation of the property distrained.

## **9. Time when the distraint can be made.**

- The distraint shall be made at any time between sun rise and sun set.

## **10. Distraint of crops or ungathered produce.**

- If crops or ungathered produce of the land belonging to the agriculturist or his heir or legal representative are distrained, the designated officer may cause them to be sold when fit for reaping or gathering, or at his option may cause them to be reaped or gathered in due season and stored in proper place until sold.

## **11. Entry of distrainer, on private premises for distraining.**

(1)Wherever the designated officer has information or reason to believe that -(a)any portion of the property to be distrained under the Act and the rules has been concealed or is likely to be concealed;(b)any person who has been required to produce or cause to be produced, any books, accounts, documents, or other information in his custody or power has omitted or failed to produce or cause to be produced, such books, accounts, documents or other information; or(c)any books, accounts, receipts, vouchers, certificates, reports or other documents relating to any property to be distrained are likely to be tampered with, falsified or fabricated.It shall be lawful for the designated officer or any official authorised by him to effect the search or inspection under this rule.(2)Whenever any place liable to search or inspection under sub-rule (1) is closed, any person residing in, or being in charge of such place, shall on demand by the officer or official conducting the search and on production of authority to conduct the search in question, allow free ingress thereto, and afford all reasonable facilities for search therein.(3)If ingress to such place cannot be obtained under sub-rule (2), it shall be lawful, in any case for the officer or official conducting the search or inspection to enter such place and search therein : and in order to effect entrance into such place to break open the lock of any door, box, safe, almirah or other receptacle for exercising the powers conferred by sub-rule (1), where the keys thereto are not available, and if after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain the admittance.Provided that, if any such place is an apartment in the actual occupancy of a female who, according to custom, does not appear in public, such officer or official shall before entering such apartment give notice to such female that she is at liberty to withdraw and shall afford her every reasonable opportunity for withdrawing before he breaks open the apartment and enters it.(4)Before making a search under this rule, the officer or official shall call upon two or three independent respectable inhabitants of the locality in which the place to be searched is situated, or

of any other locality if no such inhabitant of such locality is available or is willing to be a witness to the search, to attend and witness the search and may issue an order in writing to them or any of them so to do.(5)The search shall be made in the presence of the witnesses referred to in sub-rule (4) and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer and signed by such witnesses; but no person witnessing a search under this rule shall be required to attend the Court as a witness of the search unless specifically summoned by it.(6)The occupant of the place searched, or some person on his behalf shall, in every instance, be permitted to attend during search and a copy of the list prepared under this rule, signed by the said witnesses, shall be delivered to such occupant or person and when any person is searched under this rule, a list of all things taken in possession shall be prepared and a copy thereof shall be delivered to such person.(7)Any person who, without reasonable cause, refuses or neglects to attend and witness search under this rule, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of the Indian Penal Code.

## **12. Sale of distrained property by public auction.**

(1)The designated officer may sell or cause to be sold by public auction any property distrained under rule 7 or such part thereof as may in his opinion be necessary to satisfy the demand together with expenses of the distraint and the costs of the sale.(2)The distrainer shall at any time before the date of sale cause proclamation of the date and place of the intended sale to be made by beat of drum in the village in which the agriculturist or his heir or legal representative resides or the distrained property is kept and in such other place or places as the designated officer may consider necessary to give due publicity to the intended sale.(3)The designated officer may in his discretion adjourn the sale to a specified date recording the reasons for such adjournment. Where a sale is adjourned for a period longer than fifteen days, a fresh proclamation under sub-rule (2) shall be made unless the agriculturist or his heir or legal representative consents to waive it.

## **13. Recovery of sale proceeds from purchasers.**

- The purchaser shall not be permitted to carry away any part of the property until he has paid for it in full. If the purchaser fails to pay the purchase money the property shall be resold.

## **14. Utilisation of sale proceeds.**

(1)Where any crop, produce or other moveable property is distrained and sold in accordance with these rules, the amount due to the bank and the expenses incurred for distraint and sale shall be deducted from the sale proceeds and the balance, if any shall be paid to the agriculturist concerned.(2)The agriculturist or his heir or legal representative shall be given a receipt for the amount appropriated from the sale proceeds.

## **15. Release of distrained property on payment of the amount due by the Agriculturist or by any person claiming interest in the property.**

- Where prior to the date fixed for the sale the agriculturist or his heir or legal representative or any person acting on his behalf or any person claiming an interest in the property distrained pays the full amount due, including interest, and other expenses incurred in the distraint and sale of the property charged, the distrainer shall not proceed with the sale and shall release the property forthwith.

## **Chapter III**

Sale of Land or any interest therein

## **16. Action to be taken by bank prior to any action under section 8.**

- If an agriculturist has defaulted in the repayment of three consecutive instalments the bank shall serve a registered notice on the defaulter calling upon him to pay the sum due to the bank within one month from the date of issue of the notice and if the borrower does not pay it within the stipulated period a second notice giving him a further period of one month shall be served upon him through registered post.

## **17. Application under section 8.**

(1) After the expiry of the period mentioned in the second notice referred to in rule 16, the Branch Manager of the bank may make an application under sub-section (1) of section 8 in Form "C" to the prescribed authority within the local limits of whose jurisdiction the whole or any part of the land or any interest therein upon which the payment of any sum due to the bank on account of financial assistance is charged or mortgaged, is situate for initiating action under section 8. (2) A copy of the original document creating the charge or mortgage duly certified by an officer of the bank authorised in this behalf, shall be filed alongwith the application referred to in sub-rule (1).

## **18. Service of notice under section 8.**

- On receipt of application referred to in sub-rule (1) of rule 17, the prescribed authority shall cause to be noted thereon the date of the presentation and if he is satisfied that the application is in order, a notice in Form "D" shall be served on the agriculturist or his heir or representative, as the case may be.

## **19. Issue of order by the prescribed authority.**

- If the agriculturist or his heir or legal representative fails to pay the sum due to the bank within thirty days from the date of service of the notice referred to in rule 18, the prescribed authority shall pass orders for the payment of sum due to the bank on account of financial assistance by the sale of

his land or any interest therein upon which the payment of such money is charged or mortgaged.

## **20. Supply of certified copy of the order passed by the prescribed authority to the aggrieved party.**

- Any person affected by any order passed by the prescribed authority under rule 19, shall be entitled to be furnished with a certified copy thereof and any other connected document on application duly made in that behalf.

## **21. Time within which the bank has to dispose of the property under section 9.**

- Any agricultural land or interest therein or any other immovable property acquired by a bank under sub-section (1) of section 9 shall be disposed of by it within 3 years from the date of such acquisition or such further period as the State Government may allow.

## **22. Notice, summons etc. to be issued under the Act or rules.**

- Every order, notice, summons or intimation issued by any authority under the Act or under these rules shall bear the signatures of such authority or such other authority as may be duly authorised in this behalf, and shall be authenticated by the such authority. Form A [See rule 4(2)] Before (Designated officer) Tehsil District Applicant Versus Opposite Party (Agriculturist) Application under sub-section (5) of the section 3 of the Punjab Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act, 1978 (Punjab Act No. 5 of 1979) for the distraint and sale of crop, produce or other movable property.

1. Name and address of the Agriculturist (if the agriculturist is dead the name of his heir or legal representative should also be stated).
2. The amount of the financial assistance.
3. Date when the charge was created.
4. Date when the financial assistance was actually given.
5. The nature of the transaction and the terms of financial assistance.
6. Total amount due (including interest).
7. Payment if any made by the agriculturist along with the date of such payment.
8. Net amount due on the date of application (excluding cost).
9. Description of the property charged.

It is, therefore, requested that the property hereinbefore mentioned may be distrained and sold and the amount due be paid to the bank. Agent/Officer Incharge bank

\_\_\_\_\_ dated \_\_\_\_\_ Form B [See rule 5] Before the designated officer  
Tehsil \_\_\_\_\_

District \_\_\_\_\_ Notice under rule 5 of the Punjab Agricultural Credit Operations and Miscellaneous Provisions (Banks), Rules,

1979. To Shri \_\_\_\_\_ Where as  
Shri \_\_\_\_\_ secured financial assistance of Rs. \_\_\_\_\_ on  
\_\_\_\_\_ 19 \_\_\_\_\_ from \_\_\_\_\_ (bank) \_\_\_\_\_ (Branch)  
(District) \_\_\_\_\_ by creating a charge on the crops, produce or other  
movables specified below : And whereas the amount due to the said bank has not yet been paid, and  
the bank has made an application (copy enclosed) that the property specified below be distrained  
and sold : You are, therefore, called upon to pay the sum of Rs. \_\_\_\_\_ within a period of  
fifteen days from the date of service of this notice and/or to show cause why the property specified  
below be not distrained and sold, and the sum due be not paid to the bank from the sale proceeds  
thereof. Description of the crop, produce or other movable  
property. \_\_\_\_\_ (Designated  
officer) Dated \_\_\_\_\_ Form C [See rule 17(1)] Before the prescribed  
authority \_\_\_\_\_ Applicant  
(Bank \_\_\_\_\_ versus Opposite party (Agriculturist or his heir or legal  
representative). Application under section 8 of the Punjab Agricultural Credit Operations and  
Miscellaneous Provisions (Banks) Act, 1978 (Punjab Act No. 5 of 1979) for the sale of land or interest  
therein upon which the payment of such money is charged or mortgaged.

**1. Name of the Agriculturist to whom financial assistance was granted (if the agriculturist is dead the name of his heir or legal representative should also be stated).**

**2. The sum due on account of financial assistance.**

**3. Date when the deed was executed.**

**4. Date when the deed was registered.**

**5. Date when the financial assistance was actually availed.**

**6. The nature of the transaction and the terms of the availing financial assistance.**

**7. Total sum due (including interest)**

**9. Net sum due on the date of application (excluding cost).**

**10. Description of the property charged/mortgaged as per certified relevant documents available with the bank**

It is, therefore, requested that the sum due to the bank may be directed to be paid by the sale of the property hereinbefore mentioned. Agent/Officer-in-charge

\_\_\_\_\_ BankDated \_\_\_\_\_ Form D[See rule 8]Before the prescribed  
authority \_\_\_\_\_ Notice under section 8 of the  
Punjab Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act, 1978 (Punjab Act  
No. 5 of 1979).ToShri \_\_\_\_\_ Whereas, Shri  
\_\_\_\_\_ availed a sum of Rs. \_\_\_\_\_ on account of financial  
assistance from \_\_\_\_\_ (bank) \_\_\_\_\_ (Branch) (district)  
\_\_\_\_\_ on the basis of a deed of charge/mortgage executed on  
\_\_\_\_\_ in respect of the land or any interest therein (hereinafter referred to as the  
property) specified below :-And whereas, the sum due to the said bank has not yet been paid and the  
bank has made an application (copy enclosed) that the property specified below be sold.Now,  
therefore, in exercise of the powers under the proviso to section 8 of the Act, you are hereby called  
upon to pay the entire sum due to the said bank, within a period of thirty days from the date of  
service of this notice.Please take notice that in the case of default the property specified below shall  
be sold in accordance with the provisions of the Act and Rules made thereunder -Description of the  
property charged/mortgaged. \_\_\_\_\_ Dated  
\_\_\_\_\_ 19 \_\_\_\_\_.Seal \_\_\_\_\_ Enclosures  
\_\_\_\_\_  
(Prescribed authority)