

Bihar Money Lenders Rules, 1977

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Rule BIHAR-MONEY-LENDERS-RULES-1977 of 1977

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Bihar Money Lenders Rules, 1977Published vide Notification No. S.O. 1234, Bihar Gazette (Extraordinary), dated the 6th September, 1977S.O. 1234, dated the 6th September, 1977. - In supersession of Notification No. 926 dated the 30th July, 1975 publishing the Bihar Money-Lenders Rules, 1975, and in exercise of the powers conferred by Section 47 of the Bihar Money-Lenders Act, 1974 (Bihar Act 22 of 1975), the Governor of Bihar is pleased to make the following Rules, namely:-

Chapter I

Preliminary

1. Short title and commencement.

(1)These Rules may be called the Bihar Money-Lenders Rule, 1977.(2)They shall come into force at once.

2. Definitions.

- In these Rules unless there is anything repugnant to the subject or context. -(a)"Act" means the Bihar Money-Lenders Act, 1974 (Bihar Act 22 of 1975);(b)"From" means a Form set out in the Schedule to these Rules;(c)"Section" means a Section of the Act; and(d)all words and expressions used in these Rules and not defined in Rules but defined in the Act shall respectively have the same meanings as are assigned to them in the Act.

Chapter II

Procedure regarding personal service of notice or order.

3. Mode of service of notice or order.

(1) Unless otherwise provided in the Act any notice or order required to be served upon any person shall be served by sending a copy thereof, duly signed and sealed, by the registered post with acknowledgement due, to the person or his duly authorised agent on whom such notice or order is to be served. (2) The posting of the notice or order shall be sufficient proof of the service of such notice or order on the person concerned. (3) Where the person to be served with a notice or order under the Act is a minor or a person of unsound mind, the service shall be made in the aforesaid manner on the guardian of such minor or person of unsound mind, as the case may be.

Chapter III

Maintenance of register & registration fee

4. Maintenance of Register of money-lenders to be under Section 4.

- The Register of Money-lenders to be maintained by the Anchal Adhikari or such other officer appointed by the State Government by notification published in the Official Gazette in this behalf under sub-section (1) of Section 4 shall be in Form M.L-1 appended to these Rules.

5. Application for registration by money-lenders.

- The form of application for registration as money-lender shall be in Form M.L. 2 appended to these Rules.

6. Registration Fee.

- The following registration fee shall be payable by applicants for registration as money-lenders:-(i) where the money-lender carries on money lending business for a sum not exceeding five thousand rupees in one calendar year-Rupees ten; (ii) where the money-lender carries on money lending business for a sum exceeding five thousand rupees but not exceeding ten thousand rupees in one calendar year-rupees fifteen; (iii) where the money-lender carries on money lending business for a sum exceeding ten thousand rupees but not exceeding fifteen thousand rupees in one calendar year-rupees twenty; and (iv) where the money-lender carries on money lending business for a sum exceeding fifteen thousand rupees in one calendar year-rupees twenty five.

7. Procedure to be followed by Anchal Adhikari for granting registration certificate to money-lenders under sub-section (5) of Section 5.

- On receipt of application in Form M.L. - 2 for grant of Certificate for carrying on money lending business, the Anchal Adhikari shall verify, or shall get verified, the correctness of the particulars furnished in the application by the applicant and shall thereafter grant a registration certificate in

Form M.L. - 3.

8. Examination and inspection by Collector.

- The Collector will examine and inspect all documents and records maintained by a money-lender at least once in a calendar year.

Chapter IV

Resumption of land by mortgagor under Section 12

9. Procedure in case of resumption of mortgaged property by a mortgagor from the mortgagee under Section 12 of the Act.

(1) On the expiry of the period of mortgage as mentioned in Section 12 of the Act, the mortgagor shall send a notice in Form M.L-4 by registered post with acknowledgement due requiring the mortgagee to deliver possession of the mortgaged property within thirty days from the date of notice. (2) A copy of the notice shall also be sent by registered post with acknowledgement due by the mortgagor to the Anchal Adhikari within whose jurisdiction the mortgaged property is situated.

10. Filing of application by mortgagor to eject the mortgagee in case of the latter's failure to put the mortgagor in possession.

(1) If on the expiry of the period of notice in Form M.L. - 4, the mortgagee fails or refuses to deliver possession of the mortgaged property to the mortgagor, the mortgagor shall file an application in Form M.L. - 3 to the Collector within whose jurisdiction the mortgaged property or any part thereof is situated, to eject mortgagee from the mortgaged property. (2) The application shall bear a court-fee stamp of such value as may be payable for it under the Court Fees Act, 1870 (Act VII of 1870) for the time being in force for an application and shall be accompanied with the form of the notice duly filled in Form M.L. - 6 in triplicate. (3) On receipt of application from the mortgagor for ejecting the mortgagee the Collector shall issue a notice in Form M.L. - 6 to the mortgagee or his legal representative to show cause within thirty days from the date of issue of notice as to why the mortgagor should not be put in possession of the land. (4) If no cause is shown on or before the date specified in the notice or by such other date as may be extended by the Collector or if the cause shown is, in the opinion of the Collector, not satisfactory, he shall pass an order in writing to eject the mortgagee from the mortgaged property and put the mortgagor in possession and for that purpose he may use such force as may be necessary: Provided that the Collector shall not in any case extend the time by more than thirty days: Provided further that the Collector shall dispose of the proceeding under this rule within three months from the date of receipt of the petition. (2) The delivery of possession will be effected in the manner prescribed for the purpose in the Code of Civil Procedure, 1908 (Act V of 1908).

Chapter V

Conciliation Proceedings

11. Appointment of Conciliation Board.

(1) On the publication of the notification under Section 23 of the Act constituting a Conciliation Board, the Collector shall ask the parties to the dispute to nominate a person to represent the parties concerned in the dispute on the Conciliation Board and also ask the parties to nominate a common person who shall act as Chairman of the Board, within seven days of order. (2) If on the expiry of the period of seven days from the date of the order under sub-rule (1), the parties do not nominate their representatives or do not agree on any person to be nominated as Chairman of the Board, the State Government shall on the recommendation of the Collector of the district nominate two persons to represent the parties as provided in Section 24 of the Act and also an officer not below the rank of Sub-Deputy Collector to be the Chairman of the Board and thereupon the Collector shall ask the parties to indicate within seven days of the order whether they have any objection of the nomination on the ground that any of the person nominated has any connection with the dispute or with any of the parties directory affected by the dispute. (3) The party raising the objection shall be heard by the Collector of the district and if the objection is found to be valid, the State Government shall on the recommendation of the Collector, nominate the name of other persons to be the Chairman of the Board or to represent the parties as the case may be; the order of the Collector of the district shall be final and there shall be no appeal against it. (4) On the expiry of the period of seven days from the date of the order under sub-rule (2), if no objection has been raised by them or if an objection raised has been disallowed after hearing the parties under sub-rule (3) the State Government shall on the recommendation of the Collector of the district appoint the person nominated as the Chairman of the Board or the representative of the parties as the case may be. (5) On the appointment of the Chairman under sub-rules (1) or (4), as the case may be, the State Government shall issue a notice to the person appointed as Chairman and the members of the Board to indicate, within a period of seven days from the date of the notice, whether their services will be available. If the State Government finds that, for valid reasons shown in reply to the notice issued and after hearing the person, where considered necessary, the services of a person will not be available to act as the Chairman or the members representing the parties, as the case may be, the State Government shall take further action under sub-rules (1) or (4) as may be appropriate. (6) If within the time stipulated under sub-rule (5) no reply to the notice is received or no valid reason is shown for inability to serve the Board, the State Government shall, on the recommendation of the Collector of the district appoint the Chairman and the members of the Board.

12. Reconstitution of Conciliation Board.

(1) If the services of the Chairman or any of the members cease to be available before the Board has completed its work, the State Government will initiate action under sub-rule (f) or (4) or (5) or (6) of Rule 11 as may be appropriate, and may reconstitute the Board with a new Chairman and member or members as the case may be. (2) If a member of the Board fails to attend the meeting of the Board on two successive dates without showing cause to the satisfaction of the Chairman, the Chairman shall

give intimation in this behalf to the State Government, and the State Government may then ask the Collector of the district to forward name or names of persons for being appointed as members of the Board. The State Government shall thereupon appoint to the Board one of the persons so recommended, as the member in place of the member who had failed to attend the meetings of the Board on two successive dates.

13. Procedure for hearing under sub-section (1) of Section 27.

- Where the Board has not succeeded in bringing about an amicable settlement of the dispute, the Chairman of the Board shall issue a written notice to the parties concerned in Form ML-7 to appear before the Board on such date, time and place as may be specified in the notice, for hearing and take such evidence as he deems necessary.

14. Records and the decision of the Conciliation Board under Section 29 of the Act.

(1)The records of the Conciliation Board shall contain the following particulars:-(i)the order constituting the Board;(ii)written statements filed by the parties to the dispute, if any;(iii)memorandum of evidence of each witness, if any;(iv)documents produced by the parties to dispute in support of their case, if any; and(v)decision of the Board(2)The Board will give its decision within three months from the date on which the dispute has been referred to it, or such further period as the State Government may extend.(3)The decision of the Board shall contain-(i)the facts of the case,(ii)the points of reference and issues involved.(iii)the findings of the majority on each point of reference and each issue and not of dissent, if any, and(iv)the order of the Board.(4)The Chairman shall forward the decision of the Board to the Civil Court of competent jurisdiction.(5)The Court shall thereupon pass a decree in terms of the decision.(6)The decree passed under sub-rule (5) may be executed as a decree passed by a Civil Court in a suit.

Chapter VI

Cancellation of registration certificate

15. Cancellation of registration certificate under sub-section (1) of Section 33.

(1)Immediately on receipt of report under sub-section (1) of Section 33, the Collector of the district will issue a notice in Form M.L.8 to the money-lender to show cause by a date to be specified in the notice not exceeding 15 days from the date of service thereof, as to why his registration certificate should not be cancelled.(2)If no cause is shown on or before the period specified in the notice or such other date as may be extended by the Collector, or if the cause shown is, in the opinion of the Collector, not satisfactory, he shall pass an order in writing cancelling the registration certificate for a period specified in the order not exceeding five years with effect from such date as may be specified in the order.(3)A copy of the order duly signed and sealed shall be sent by registered post with acknowledgement due to the Anchal Adhikari, who granted the certificate with a period of

three days from the date of the order and thereupon the Anchal Adhikari shall make endorsement of cancellation in the Register of Money-lenders and inform the money-lender about such cancellation by registered post with acknowledgement due.

16. The manner in which the money deposited in court under Section 37 of the Act is to be disposed of.

(1) If no application is made by the money-lender under sub-section (4) of Section 37 of the Act within three days from the date of the service of the notice as mentioned in sub-section (3) of Section 37 of the Act, the Court shall make a report to the Collector. (2) The Collector shall, as soon as possible make an application to the court praying for payment to him of the amount in deposit and the court shall, thereupon, order payment of the amount to him. (3) The Collector shall on receipt of the amount deposit the same in the account of Government as unclaimed money.

Chapter VII Miscellaneous

17. Court-fee.

- Save as otherwise provided in these Rules, appeal or application for revision under the Act shall bear court fee stamp of such value as may be payable for it under the Court-Fees Act, 1870 (Act VII of 1870) for time being in force in the State of Bihar.

18. Saving.

- Anything done or any action taken in the exercise of the powers conferred by or under the Bihar Money-Lenders Rules, 1975, shall be deemed to have been done or taken in exercise of the powers conferred by or under these Rules as if these Rules were in force on the day on which such thing was done or action was taken. The Schedule Form M.L. 1 Form of Register of Money-Lender to be maintained under sub-section (1) of Section 4 (See Rule 4)

District Sub-division Anchal:

Sl. No.	Name and parentage of the money-lender	Address (present and permanent)	Name and style of the business/ Firm	Principal place of business	Name of places where branches are located	Area of operation	Extent of business	Date of grant of Registration certificate
1	2	3	4	5	6	7	8	9

Date of the expiry of the Registration Certificate.	Date of renewal of the	The period for which the	No. of Certificate of Registration	Signature of granting	Remarks.
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	Registration Certificate.	Registration Certificate has been cancelled under subsection (1) of Section 33.	granted to the money-lender under sub-section (5) of Section 5.	authority.	
10	11	12	13	14	15

Form M.L. 2 Form of application for registration by money-lender [See Rule 5] To, The Anchal
adhikari... .. (Appointed under Bihar Act 22 of 1975) Sir, I/We intend to carry on
money-lending business for which necessary particulars are detailed below. Kindly issue a
Registration Certificate in my/our favour. I/We solemnly affirm that the statements made below are
true to my/our knowledge and belief:-

1. Name and address of the applicant (in Block letters).

**2. The name and style under which he/they carries/carry or desire[s] to carry
on business as money-lender[s],**

3. The principal place of business...

(a) Village/Mohalla... (b) Town. (c) Thana. (d) Anchal. (e) Sub-division. (f) District.

4. Name of place where branches shall be located.

**5. Where any certificate of registration previously granted to him/them under
the Act has been cancelled? If so details thereof.**

6. (a) Amount of Registration fee deposited.

(b) Name of the treasury in which amount has been deposited. (c) No. and date of challan.

**7. Maximum amount of loan which he/ they intend [s] to advance in one
calendar year.**

8. Area/areas of operation of his/their business.

9. Signature of applicant[s]

[To be filled up in the office of the Anchal Adhikari] Order of Anchal Adhikari I..... Anchal
Adhikari of Anchal,
Sub-division..... District..... have

verified the particulars of the application and am satisfied that the particulars furnished by the applicant [s] are true. The applicant [s] is/are therefore granted a Registration Certificate for carrying on business as money lender [s] in the area/areas specified in the application. The Certificate shall remain in force for a period of five years from the date of order. [*I..... Anchal Adhikari of, Anchal, Sub-division..... District..... have verified the particulars of the applications and am of the opinion that the applicant [s] should not be granted registration certificate for carrying on money-lending business for the reasons mentioned below:-Reasons ...The application is therefore rejected.

Place-(Seal of the Anchal Adhikari under Act 22 of 1975). Signature of the Anchal Adhikari (of.... Anchal appointed as Anchal Adhikari under the Act. (Name in Block letters))
 *Strike out which is not applicable. Receipt. Memo. No. Received an application in Form M.L. 2 From Sri/Srimati/M/s..... son/daughter/wife of... resident of village town..... P.S..... District. This..... day of 200 for grant of Registration Certificate under Section 5(5) of the Bihar Money-Lender, Act, 1974. Signature of Anchal Adhikari, (Name in Block letters.) Place Seal Form M.L., 3. Form of Registration Certificate to be granted to Money-lenders under subsection [5] of Section 5 of the Act [Bihar Act 22 of 1975]. Certificate of Regulation. [See Rule 7] Sri/Srimati/M/s..... of village/Mohalla, Town. P.S. - -----, ----- P.O. - -----, --Sub-division-, District----- is/are/hereby granted a certificate to carry on business of money-lending in the name and style of----- have the principal place of his/their business at and branches at-

2. This certificate shall remain valid for a period of five years from-----to-----unless it is cancelled earlier under Section 33 of the Act.

Signature of Anchal Adhikari. Date-Place-(of - - - Anchal appointed as Anchal Adhikari under the Act). (Name in Block letters.) Seal of the Anchal Adhikari under Act 22 of 1975) Form. M.L. 4. From of notice under Section 12 of the Bihar Money-Lenders Act, 1974 (Bihar Act 22 of 1975) by the mortgagor to the mortgagee of his intention to resume the mortgaged property (to be sent by registered post with acknowledgement due.) [See Rule 9(1)] To,

Shri/Shrimati - - -
 Son/daughter/wife of - - -
 Village/mohalla - - -
 Police-station - - -
 Post Office - - -
 Anchal - - -
 Subdivision - - -
 District - - -

Whereas the land comprised in plot/plots described in the Schedule annexed hereto was/were mortgaged in favour of-----registered mortgage deed dated-----day of----- 200....;And Whereas the period of seven years from the date of execution of the mortgaged land has expired on-----day-----200 ;And Whereas I have become entitled to recover possession of the aforesaid mortgaged land in accordance with the provisions of Section 12 of the Bihar Money Lenders Act, 1974 (Bihar Act 22 of 1975) on-----day of-----200 ;And Whereas you are the mortgagee/legal heir/successor-in- interest of the mortgagee;Now, therefore, I-----son-daughter/wife of-----, of village/mohalla-----P.S. - -----, P.O. - -----, Anchal-----Subdivision-----District-----hereby give you notice under Section 12 (1) of the said Act, to deliver possession of the aforesaid mortgaged land annexed hereto, to me within thirty days from the date of this notice,Take further notice that if you fail to deliver possession of the aforesaid land within the said period, I shall make an application to the Collector for restoration of the land to me after ejecting you therefrom.A copy of the notice is also being forwarded to the Anchal Adhikari of the----Anchal for information.

describing the mortgaged land to be restored to the mortgagor.

Name of village in which the land is situated.	Name of police-station.	Description of the land.	Name of the mortgagee from whom the landdescribed in columns 3 to 6 is to be delivered to the mortgagor.
Tauzi no.	Khata no.	Plot no.	Area.
1	2	3	4
			5 6 7

Place- Signature of the Mortgagor

Date- (Name in block letters).

Copy forwarded to Anchal Adhikari of-----Anchal-----Subdivision-----District-for his information.

Place- Signature of the Mortgagor

Date- (Name in block letters).

Form M.L. 5Form of application by the mortgagor for ejecting the mortgagee.(To be filed in triplicate with original bearing prescribed Court. Fee Stamp).[See Rule 10(1)]To,The Collector.....appointed under the Bihar Money Lenders Act, 1974 (Bihar Act 22 of 1975) of..... Anchal.Sir,I enclose a copy of the notice in Form M.L.4 sent by me through registered post with acknowledgement due to mortgagee, named below with a copy of the postal registration receipt and request that the possession of the mortgaged land described in the Schedule annexed to the said notice be restored to me after ejecting therefrom the mortgagee whose address is given below:.....

Name

Son/daughter/Wife of

Address

Village/Mohalla
P.O.
Subdivision
District

Date-Place- Yours faithfullySignature of themortgagor.(Name in Block letters)

Form M.L. 6Form of notice to be issued by the Collector for ejectment of the Mortgagee[See Rule 10 (3)]To,

Name
Son/daughter/Wife of
Village/Mohalla
P.O.
P.S.
Anchal
Sub-division
District

WHEREAS a notice in Form M.L. 4 has been sent to you by name-----son/daughter/wife of of village, Mohalla-----P.O. - -----P.S. - -----Anchal-----Subdivision-----District-----of his intention to recovery possession from you, the mortgaged land described in the Schedule annexed;AND WHEREAS he/she has made an application to me requesting for restoration of the mortgaged land to him/her after ejecting you therefrom;NOW, THEREFORE, I hereby give you this notice under Section 12 of the Bihar Money-Lenders Act, 1974 read with Rule 10 (2) of the Bihar Money-Lenders Rules, 1977 to show cause by the-----day of-----200-----as to why you may not be ejected from the mortgaged land described in the Schedule annexed and the same be put in possession to the mortgagor aforesaid.Take further notice that if on hearing an order is passed ejecting you from the land, the order shall take effect from the date it is passed.

describing the mortgaged land to be restored to the mortgagor.

Name of village in which the land is situated.	Name of police-station.	Description of the land.	Name of the mortgagee from whom the landdescribed in columns 3 to 6 is to be delivered to the mortgagor.
Tauzi no.	Khata no.	Plot no.	Area.
1	2	3	4
			5 6 7

Given under my hand and the seal of the Court, this----day of---200---.Signature of the Collector(Name in Block letters.)Place...Date....Seal of the Court.Form M.L. 7.Form of notice to be issued by the Chairman under sub-section (1) of Section 27 of Bihar Act 22 of 1975.(See Rule 13)

... .. Petitioner

vs.

1. Opposite-party.

2.

3. (& others)

To, Sri/Srimati.....son/wife/daughter of resident of village/Mohalla...

, P.S..... P.O..... Anchal...

.....Sub-division.....district.....(money-lender/mortgagee) To, Sri/Srimati.....son/wife/daughter of resident of village/Mohalla.....P.S.....P.O

Anchal.....Sub-division.....district.....(debtor/mortgagor). Whereas a dispute between the abovenamed parties under the Bihar Money-Lenders Act, 1974 (Bihar Act 22 of 1975) has been referred to the Board consisting of the undersigned as the Chairman by the State Government, vide Notification No...dated.....(copy annexed) you are hereby directed to appear before me No.....day.....of.....200. at....;. ...A.M./PM, at.....(place) and to participate in the investigation of the dispute and file your objections in your objections in writing. Signature of Chairman. Form M.L.8. Form of notice to be issued by the Collector to the money-lender under sub-section (1) of Section 33 of Bihar Act 22 of 1975. [See Rule 15(1)] To,

Name

Son/daughter/Wife of

P.O.

P.S.

Anchal

Sub-division

District

Whereas a report has been received from the Court of.....that you are guilty of fraud in contravention of the provisions of the Bihar Money-Lenders Act, 1974 (Bihar Act 22 of 1975) that you are unfit to carry on the business of money-lending for the reason mentioned below:-Now, therefore, I hereby give you notice under Section 33(1) of the Bihar Money-Lenders Act, 1974 to show cause by the day of.....200.....as to why your registration certificate granted under the Act to carry on business as money-lender should not be cancelled. Given under my hand and seal of the Court this.....day of.....200.....Place.....Date.Seal of the Court. Signature of the Collector under the Act. Name in block letters.