

# **The U.P. Debt Redemption Rules, 1941**

UTTAR PRADESH

India

## **The U.P. Debt Redemption Rules, 1941**

### **Rule THE-U-P-DEBT-REDEMPTION-RULES-1941 of 1941**

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## **Chapter I**

Preliminary

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

- These rules may be called the Uttar Pradesh, Debt Redemption Rules, 1941.

### **2. Interpretation.**

- In these rules, unless there is anything repugnant in the subject or context,-(a)"the Act" means the Uttar Pradesh Debt Redemption Act, 1940 (Act XIII of 1940);(b)"protected land" means land which by the provisions of section 17 of the Act is protected from permanent alienation in execution of a decree;(c)"unprotected land" means land which is not protected land.

## **Chapter II**

### **Annual Values and Determination of Protected Land**

### **3. Transfer of execution to Collector.**

- The execution of all decrees to which the Act applies in which a civil court has ordered any land situated in the Uttar Pradesh or any interest in such land, to be sold or otherwise transferred, shall be transferred to the Collector.

#### **4. Determination of protected land.**

(1) On receipt of a decree for execution under rule 3, the Collector shall have regard to the provisions of clause (c) of section 3, and the first proviso of sub-section (1) of section 17 of the Act, proceed to determine the local rate payable by, or recoverable from the judgement-debtor, or each of the judgement-debtors where there are more than one. (2) Where the local rate determined under sub-rule (1) in regard to any judgement-debtor does not exceed Rs. 28, the whole of his land shall be determined as protected land. (3) Where the local rate so determined in regard to any judgement-debtor exceeds Rs. 25, the Collector, shall with due regard to the wishes of the judgement-debtor, proceed to determine what portion of the land shall be protected land. (4) The Collector shall see that the area of the land determined under sub-rule (3) is as far as possible compact, and is situated in a village in or near which the judgement-debtor resides.

#### **5. Determination of annual value under section 16 (2) of the Act.**

(1) For the purpose of the execution of decrees of the kind specified in sub-section (2) of section 16 of the Act, Collector shall calculate—(a) the annual value of the judgement-debtor's unprotected land in the agricultural year 1337 Fasli, in accordance with the provisions of Uttar Pradesh Encumbered Estates Act, 1934 (XXV of 1934) and the rules made thereunder, for the calculation of the pre-slump profits of land as defined in that Act; (b) the annual value of the judgement-debtor's unprotected land in the year in which the decree is sought to be executed in the manner prescribed by the rules made under the Uttar Pradesh Encumbered Estates Act, 1934 (XXV of 1934), for the calculation of post-slump profits of land as defined in that Act. (2) If in any area the records for the year 1337 Fasli are not available or are incomplete, the Collector shall for the purposes of determining the annual value under clause (a) of sub-rule (1), calculate such value with reference to the year nearest to 1337 Fasli for which complete records are available. If in the year so chosen as the basis of calculation, remissions for the slump in prices were in force, these remissions shall be ignored in calculating the annual value.

#### **6. Determination of annual value under section 16 (3) of the Act.**

- In the case of any other decree mentioned in sub-section (3) of section 16 of the Act, the Collector shall calculate the annual value of the judgement-debtor's unprotected land in the year in which the decree is sought to be executed, in the manner prescribed by clause (b) of sub-rule (1) of Rule 5.

#### **7. Multiple to be applied under sub-sections (2) and (3) of section 16 of the Act.**

(1) The multiple prescribed for calculating the value of the judgement-debtor's unprotected land for the purpose of transfer under sub-sections (2) and (3) of section 16 of the Act shall be the multiple prescribed in Appendix 1 of the rules made under the Uttar Pradesh Encumbered Estates Act, 1934 (XXV of 1934), read with Rules 21 and 26 of these rules, for the settlement circle in which the judgement-debtor's unprotected land lies. (2) When unprotected land is subject to a prior

encumbrance along with other property, then, for the purposes of sub-sections (4) and (5) of section 16 of the Act, the proportionate amount of such encumbrance in respect of the unprotected land to be transferred is that proportion of the whole encumbrance which the value of the unprotected land to be transferred bears the value of the whole of the judgement-debtor's property subject to such encumbrance.

## **8. Determination of land to be transferred to decree-holder.**

- When the annual value of the judgement-debtor's unprotected land has been calculated in accordance with the provisions of the Act and these rules, the Collector shall give the judgement-debtor and the decree-holder an opportunity of being heard, and shall, if they appear, explain the valuations to them and hear objections, if any, made by them. The Collector may modify the valuations where he considers this necessary in the light of any objections made by the judgement-debtor or the decree-holder, and shall then determine what portion of the land should be transferred in accordance with section 16 of the Act to the decree-holder.

## **Chapter III**

## **Mortgage of Protected Land and its Redemption**

(Rules Under Section 17)

## **9. Forms of mortgage.**

- The form of the mortgage granted under the third proviso to sub-section (1) of section 17 of the Act shall be that prescribed in clause (a) of sub-section (1) of Section 13 of the Uttar Pradesh Regulation of Agricultural Credit Act, 1940 (U.P. Act XIV of 1940), and its conditions will be those prescribed by section 14 and those which the Collector may, consistent with the provisions of section 15 of the Act, think fit to impose.

## **10. Calculation of net profits.**

(1) In determining the area of the protected land to be mortgaged and the period for which the mortgage is to be granted, the Collector shall first calculate the net profits of the judgement-debtor's protected land as against which the decree is sought to be executed. (2) The gross profits of the judgement debtor's protected land shall be calculated in the manner prescribed by or under the provisions of the Uttar Pradesh Encumbered Estates Act, 1934 (XXV of 1934), for the calculation of the post-slumps profits of land. For the determination of net profits, deductions may be made from the gross profits so calculated on account of - (a) cost of management, and (b) short collections. Where the crops in the area in which the judgement-debtor's protected land is situated are specially liable to damage by flood, drought, or other natural calamity, a deduction from the gross profits may also be made on this account. (3) (a) The deduction made on account of cost of management should not exceed 10 per cent of the gross profits calculated in accordance with sub-rule (2). (b) The deduction made for short collections should take into account the character and circumstances of

the tenants, and the ease or difficulty with which collections are made. The deduction under this sub-rule should also not exceed 10 per cent of the gross profits calculated as aforesaid.(c)If a deduction is made for possible loss on account of agricultural calamities, this should be based on the average amount of remission of rent and revenue granted on this account in the previous ten years, and should not exceed 10 percent of the gross profits.(d)In no case shall the total of the deductions made by the Collector under sub-rule (2) exceed 25 percent of the gross profits.(4)The net profits calculated as above shall be presumed to remain uncharged throughout the term of mortgage.

## **11. Determination of period of mortgage and the area to be mortgaged.**

(1)The tables given in Appendix A show the amount which can be repaid in any period from one to twenty years by annual payment of Rs. 100 allowing for interest at 3 per cent per annum, which is the rate of interest prescribed in sub-section (3) of section 10 of the Act. The Collector shall calculate from these tables the amount which can be repaid in the maximum period of twenty years from the net profits of the judgement-debtor's protected land.Example. - If the net annual profits of the judgement-debtor's protected land are Rs. 200, a reference to the tables in Appendix A shows that in twenty years a sum of Rs. 1,487.74 (say Rs. 1,488) can be repaid by annual payments of Rs. 100. Therefore, in twenty years a sum of Rs. 2,976 can be repaid to the decree-holder from the profits of the judgement-debtor's protected land (Rs. 200).(2)If the amount which can thus be repaid in twenty years is less than or equal to the amount of the decree, the Collector shall grant the mortgage for the full period of twenty years.(3)If the amount so determined is greater than the amount due under the decree, the Collector shall determine what portion of the judgement-debtor's protected land should be mortgaged and for what term of years.Example. - If in the example given in sub-rule (1) the amount due under the decree, is Rs. 1,000 then the decretal amount can be repaid by a mortgage for the full term of twenty years of a portion of the judgement-debtor's protected land represented by the fraction  $1,000/2,976$ .A reference to the table in Appendix A shows that a sum of Rs. 916 can be repaid by annual payments of Rs. 200 in five years, and a sum of Rs. 1,084 in six years. Thus the decretal amount can also be repaid by the grant of a mortgage of the whole of the judgement-debtor's protected land for a term of five or six years, the difference being adjusted by a cash payment(4)In deciding the period of the mortgage and the area of the judgement-debtor's protected land to be mortgaged, the Collector shall consult the wishes of the parties and in particular the wishes of the judgement-debtor, and shall consider how their interest would be best served.

## **12. Rateable distribution among several persons holding unsecured decrees.**

- If several persons holding unsecured decrees apply for execution of their decrees by grant of a mortgage of protected land, the Collector shall divide the protected land, or such portion of it as is available, into rateable shares according in the net annual profits of the land and the amount of the decrees, and shall grant mortgages simultaneously to the decree-holders accordingly.Example. - Suppose the net annual profits of the land available for mortgage to unsecured decree-holders are Rs. 50 and there are three decree-holders with decrees of Rs. 500, Rs. 300 and Rs. 200 respectively. A reference to the table in Appendix A shows that in twenty years a sum of Rs. 1,487.74 (Rs. 1,488) can be repaid by annual payments of Rs. 100, if the rate of interest is 3 percent, with annual payments of Rs. 50 therefore, a sum of Rs. 744 can be repaid in twenty years. As the amount which

can be repaid over a period of twenty years is less than the total amount of the decree (Rs. 1,000) the mortgage for the full period of twenty years should be granted, vide rule 11. The decree-holder with the decree of Rs. 500 shall be given a mortgage of land of which the net annual profit is Rs. 25 for the full period of twenty years, the other holding the decree of Rs. 300 should be granted a mortgage of land of which the net annual profit is Rs. 15 for a similar period, and the third will get a mortgage of the rest of the land of which the net annual profit is Rs. 10.

### **13. Certificate of transfer.**

- The certificate of transfer under sub-section (1) of section 20 of the Act shall be in the form given in Appendix B, and a copy of it shall be sent to the registering officer within the local limits of whose jurisdiction the whole or any part of the land comprised in such certificate is situate, and such officer shall file the copy in his Book No. 1.

### **14. Certificate of mortgage.**

- The certificate of mortgage under sub-section (2) of section 20 of the Act shall be in the form given in Appendix C and a copy of it shall be sent to the registering officer within the local limits of whose jurisdiction the whole or any part of the land comprised in such certificate is situate, and such officer shall file the copy in his Book No. 1.

### **15. Redemption of mortgage of protected land.**

- When the judgement-debtor applies for redemption of a mortgage granted under the provisions of section 17 of the Act, the Collector shall determine the number of years which the mortgage has still to run on the 30th day of June next following the date on which the application is made. The Collector shall then refer to the table in Appendix D, and shall determine what proportion of the [money] [The word 'mortgage money' were substituted for the word 'mortgage debt', and the existing example was numbered as example I and a new example II was inserted by U.P. Government Notification No. 1167/1-95-45, dated 24th September, 1946.] mortgage must be repaid by judgement-debtor for the redemption of his protected land. Example I. - Suppose that in the example in Rule 11 (3) the decree-holder is given a mortgage of the judgement-debtor's protected land for a term of six years, then the value of the mortgage as determined from the table in Appendix A, is Rs. 1,084. The excess amount of Rs. 84 has been adjusted by a cash payment by the decree-holder to the judgement-debtor. At the end of the fourth year the judgement-debtor desires to redeem the mortgage and a reference will then be made to the table in Appendix A. The mortgage was for six years and still has two years to run. The figure in column 6 opposite "two years" is 35-32 so that the judgement-debtor must pay 35-32 per cent of the mortgage-money in order to redeem the mortgage. That is to say, he must pay a sum of

Rs. |  $1084 \times 35.32100$  | . This comes to Rs. 382.89, or Rs. 383 which the mortgagor (judgment-debtor) must pay for the redemption of the mortgage at the end of the fourth year. Example II. - Suppose that the amount of the decree is Rs. 3,500, and that annual net profits of the

judgement-debtor's protected land are Rs. 200. Then the grant of a mortgage under section 17 of the Act, read with Rule 11 (2), means that in 20 years a sum of Rs. 2,976 will be paid to the decree-holder from the net profits of the protected land. If the judgement-debtor wishes to redeem to mortgage, say, after 7 years then applying the formula of Rule 15, he will have to pay Rs.  $2.976 \times 72.48100 = \text{Rs. } 215.70$

This amount represents the present value of the sum that the creditor would have realized from the mortgaged property in a further period of 13 years had not the judgement-debtor moved for its early redemption at the end of the seventh years. Notes. - Rule 15-A was added by U.P. Government Notification No. 2676/1-580-41, dated 24th November, 1941 as amended by Notification No. 636 (ii) 1-95-1942 (1), dated 7th March, 1942.

## 15A.

Power of a Collector under these rules may, by any general or special order in writing of the Collector, be exercised by Assistant Collector of the first class with respect to cases in which-(a)the land revenue nominal or actual (without deducting the remission for the fall in prices) payable by the agriculturist judgement-debtor is less than rupees five thousand, and(b)the amount of the decree or decrees under execution is less than rupees one lakh.

## 16. General.

- The rules contained in Chapter XI of the Revenue Manual, relating to sales of agricultural land in execution of Civil Court decrees, shall apply to transfers in execution of decrees to which the Act applies in so far as they are not inconsistent with the provisions of the Act and these rules.

## Chapter IV

### Protected Land under the Encumbered Estates Act

#### 17. Determination of protected land under U.P. Act XXV of 1934.

- For the purpose of determining the protected land of an agriculturist in proceedings under the Uttar Pradesh Encumbered Estates Act, 1934 (U.P. Act XXV of 1934), the Collector shall proceed in the manner provided in Rule 4. Appendix A (See rule 11) Present value of annual payments of Rs. 100 for any number of years from one to twenty allowing interest at three per cent per annum.

Term of mortgage in years	Present value of annual payments of Rs. 100
1.	... .. 97.08
2.	... .. 191.35
3.	... .. 282.86
4.	... .. 371.70
5.	... .. 457.97

6.	... ..	... .. 541.71
7.	... ..	... .. 623.02
8.	... ..	... .. 701.96
9.	... ..	... .. 178.61
10.	... ..	... .. 853.02
11.	... ..	... .. 925.26
12.	... ..	... .. 995.40
13.	... ..	... .. 1,063.49
14.	... ..	... .. 1,129.60
15.	... ..	... .. 1,193.79
16.	... ..	... .. 1,256.11
17.	... ..	... .. 1,316.61
18.	... ..	... .. 1,375.35
19.	... ..	... .. 1,432.37
20.	... ..	... .. 1,487.74

Appendix B(See Rule 13)Certificate of transfer of protected land[Under Section 20 (1) of the Uttar Pradesh Debt Redemption Act, 1940 (XIII of 1940)]This is to certify that the land described in the Second Schedule thereby annexed, together with all easements and appurtenances attached or belonging thereto and all the rights and interests of ..... son of ..... by caste ..... resident of ..... (judgement-debtor) in that land has been transferred to ..... son of ..... by caste ..... resident of ..... (decree-holder) in accordance with the provisions of section 16 of the Uttar Pradesh Debt Redemption Act, 1940 (U.P. Act XIII of 1940), in part/ full satisfaction of the decree specified in the First Schedule.Given under my hand and the seal of the court this ..... day of ..... 19.

Name of Court passing the decree	Number of case	Date of decree	Name of parties	Amount of the decree
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Second Schedule(A ..... share in the land described below.)(Description of land)Valuation according to Rule 5, or Rule 6, as the case may be read with Rule ..... Rs.Collector.Appendix C(See Rule 14)Certificate of mortgage of protected land under sub-section (2) of section 20 of the Uttar Pradesh Debt Redemption Act, 1940 (U.P. Act XIII of 1940).This is to certify that all the rights, title and interest of ..... son of ..... by caste ..... resident of ..... in the land described in the First Schedule thereto annexed has been mortgaged with possession under the provisions of Section 17 ..... the Uttar Pradesh Debt Redemption Act, 1940Section 18 read with section 17(U.P. Act XIII of 1940), to ..... son of ..... by caste ..... resident of ..... for a period of ..... years with effect from on the conditions prescribed by Rule 9 of the Uttar Pradesh Debt Redemption Rules, 1941, and specified in the Third Schedule annexed hereto in part/ full satisfaction of the decree specified in the Second Schedule.Given under my hand and the seal of the court this ..... day of ..... 19.

First Schedule(A ..... share in the land described below.)(Description of land)Second Schedule

Name of Court passing the decree	Number of case	Date of decree	Name of parties	Amount of the decree
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Third Schedule Conditions (1) The mortgagee shall be entitled to retain proprietary possession of the land and to receive the rents and profits thereof in lieu of interests and towards payment of the principal in the condition that after the expiry of ..... years the land shall be re-delivered by him to the judgement-debtor or his successor-in-interest. (2) The mortgage shall be for a complete number of years and possession shall be delivered by the mortgagee and resumed by the mortgagor on the expiry of the term of the mortgage or on redemption before the expiry of that term, only between the first day of May and the thirtieth day of June in any year. (3) The profits of the land shall be presumed to remain unchanged throughout the term of the mortgage and shall be the amount determined by the Collector under Rule 10 of the Uttar Pradesh Debt Redemption Rules, 1941. (4) The mortgage debt shall be extinguished on the expiry of the term for which the mortgagee is authorized to remain in possession. (5) The sum of money to be paid by the mortgagor on redemption of his land before the expiry of the term of the mortgage shall be such proportion of the mortgage money as may be prescribed by the Uttar Pradesh Debt Redemption Rules, 1941, less, any amount that may be due to the mortgagor for any loss or damage caused to the mortgaged property by any Act of the mortgagee which is permanently injurious to the mortgaged property, other than an act which may have been permitted by the Collector in accordance with Rule 9 of those rules. \*Conditions, if any, imposed by the Collector in accordance with Rule 9 of the Uttar Pradesh Debt Redemption Rules, 1941. (6) ..... (7) ..... To Collector Registration Officer. \* The Collector shall file in the blank space here. Appendix - D (See Rule 15) Table showing the percentage of original debt of Rs. 100 that must be paid to mortgagee bearing 3 percent per annum at any time between one to twenty years

Numbers

of years which mortgage has to run

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
1.	100	50.74	34.42	26.15	21.12	17.92	15.58	13.83	12.47	11.38	10.49	9.75	9.13	8.59	8.11	7.68	7.28	6.90	6.54
2.		100	67.65	51.18	41.71	35.23	30.71	27.26	24.57	22.43	20.68	19.22	17.99	16.94	16.01	15.18	14.44	13.79	13.22
3.			100	76.10	61.76	52.21	45.40	40.29	36.33	33.16	30.57	28.42	26.60	25.04	23.64	22.31	21.04	19.83	18.67
4.				100	81.16	68.62	59.66	52.95	47.74	43.57	40.17	37.34	34.95	32.91	31.01	29.24	27.59	26.04	24.58
5.					100	84.54	73.51	67.24	61.82	57.69	54.50	51.82	49.06	46.04	43.74	41.54	39.42	37.37	35.39
6.						100	86.96	77.17	69.57	63.51	58.55	54.42	50.49	47.96	45.51	43.14	40.84	38.60	36.42
7.							100	88.75	80.02	73.04	67.33	62.59	58.58	55.16	52.31	49.52	46.78	44.08	41.42
8.								100	90.16	82.29	75.87	70.52	66.00	62.14	58.81	55.51	52.24	48.99	45.76
9.									100	91.28	84.01	78.01	73.21	68.23	64.06	60.00	56.04	52.08	48.12
10.										100	92.19	85.70	80.21	75.51	70.51	66.00	61.50	57.00	52.50
11.											100	92.95	87.00	81.91	76.50	71.00	65.50	60.00	54.50



12.	100	93.60	88.12	8
13.		100	94.15	8
14.			100	9
15.				1
16.				
17.				
18.				
19.				
20.				