

DELHI CHIT FUND RULES, 1964

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DELHI CHIT FUND RULES, 1964

In exercise of the powers conferred by Section 63 of the Madras Chit Funds Act, 1961 as extended to the Union Territory of Delhi, the Chief Commissioner, Delhi, is pleased to make the following

rules, namely the Delhi Chit Fund Rules, 1964

CHAPTER 1

Preliminary

1. Short title and commencement :-

(1) These rules may be called the Delhi Chit Fund Rules, 1964.

(2) These rules shall come into force at once.

2. Definitions :-

In the rules, unless the context otherwise requires,

(1) "Act" means the Madras Chit Funds Act, 1961 as extended to the Union Territory of Delhi;

(2) "agent" means a person duly authorised by a power of attorney executed and authenticated in the manner mentioned in section 33 of the Indian Registration Act, 1908 (Central Act XVI of 1908);

(3) "Chit Auditor" means a person appointed by that designation under sub-section (2) of section 51 of the Act;

(4) "Delhi" means the Union Territory of Delhi;

(5) "Director of Chits" means a person appointed by that designation under sub-section (1) of Section 51 of the Act;

(6) "form" means a form appended to these rules;

(7) "Inspecting Officer" means a person appointed by that designation under sub-section (1) of section 51 of the Act;

(8) "Principal Officer" used with reference to a company means,

(a) the secretary, treasurer, manager or agent of the company; or

(b) any person connected with the management of administration of the company upon whom the Registrar has served a notice of his intention of treating him as the principal officer thereof; and

(9) "section" means a section of the Act.

CHAPTER 2

Registration

3. Application for registration of by-laws :-

(1) For the purpose of registration of by-laws under sub-section (2) of section 3 there shall be submitted to the Registrar application in

Form CF 1. Ever) such application shall be signed by the foreman if an individual proprietor, or in case the foreman is a firm, Hindu undivided family, co-operative society or a company incorporated under the Companies Act, by its partner, by its 'Karta', by its President or Secretary or any member duly authorised in this behalf, or by the principal officer managing the business, respectively.

(2) The fee prescribed in rule 44 shall be charged for the registration of the by-laws of a chit and every application under sub-rule (1) shall be accompanied by a treasury receipt evidencing the payment of such fees.

4. Registration of by-laws :-

(1) On receipt of the application under rule 3, the Registrar shall examine the application and the by-laws in order to satisfy himself that the by-laws are

(a) in conformity with the Act and these Rules;

(b) suitable for carrying out the object of the chit; and

(c) suitable for carrying safe and fair conduct of the business of the chit.

(2) The Registrar shall, if satisfied that the requirements laid down in sub-rule (1) have been fulfilled, grant a certificate of registration in Form CF II.

(3) Every certificate of registration issued under sub-section (3) of section 3 shall be signed by the Registrar and shall bear his official seal. The Registrar shall endorse the duplicate copy of the by-laws in the following manner: "Certified that the by-laws of the chit the original copy of which has been filed with me, have been duly registered under section 3 of the Madras Chit Funds Act, 1961, as extended to the Union territory of Delhi in the name of SEAL Date Registrar Foreman's Signature....."

(4) The Registrar may, for reasons to be recorded in writing, refuse to register of the by-laws provided that before passing such order that applicant shall be given due opportunity of being heard. In the event of such refusal a copy of the order shall be sent to the applicant free of charge.

(5) In the event of refusal of registration of by-laws under sub-rule

(4), the registration fee, subject to final order passed in this behalf under sub-section (3) of section 54, would on application become refundable to the applicant.

(6) No application for refund under sub-rule (5) shall be entertained if it is filed after twelve months from the date of the order refusing registration or after six months from the date of final order passed on appeal under section 54.

(7) No registration of by-laws shall be allowed if the applicant foreman:

(a) is a minor; or

(b) is an undischarged insolvent; or

(c) has been adjudicated by a competent court to be of unsound mind.

(8) In the event of the foreman of a chit becoming disqualified under sub- rule (7) the registration of by-laws shall, ipso facto become void.

5. Grant of attested copy for additional place of business and display of certificate of registration or attested copy thereof :-

(1) The registrar shall furnish the foreman free of cost an attested Certificate of Registration for every additional place where chit business is conducted.

(2) The Certificate of Registration or the attested copy thereof shall be displayed prominently at every place of chit business.

6. Duplicate copy of certificate of registration and by-laws :-

Any foreman may obtain from the Registrar on deposit in the Treasury of a fee prescribed for the purpose in rule 44

(1) a duplicate copy of the Certificate of Registration, in case the original certificate of registration or attested copy thereof has been lost, destroyed or defaced; and

(2) another duly endorsed duplicate copy of the by-laws if the duplicate of the by-laws endorsed under rule 4 has been destroyed or defaced.

7. Change in ownership, name or place of business of a

foreman :-

(1) Subject to the provisions contained in Section 18, any change in the ownership, name or place of a business of a foreman shall be notified to the Registrar within 14 days of such change.

(2) On receipt of such information, the Registrar shall make or cause to be made such enquiries as he may deem necessary. On being satisfied as to the genuineness of the change, the Registrar shall pass an order for incorporation of the change in the Certificate of Registration.

8. Framing of by-laws :-

The by-laws submitted for registration under sub-section (3) shall provide inter alia for the following matters :

- (i) The full name of foreman conducting chit business.
- (ii) The complete address of the foreman being a registered address in the case of company being a foreman.
- (iii) The name under which chit business is done or is proposed to be done.
- (iv) The full details of the working of the chit.
- (v) The area of operation of the chit.
- (vi) The circumstances under which withdrawals of subscribers shall be permitted.
- (vii) The procedure to be followed for returning the money of the subscriber in case of withdrawal, ineligibility or death of subscriber.
- (viii) The conditions under which a transfer of a chit or the interest of a subscriber shall be permitted
- .
- (ix) The full name and designation of the officer entitled to sign documents on behalf of the foreman.
- (x) The rate of commission to which the foreman will be entitled.
- (xi) The language in which the accounts shall be kept.
- (xii) The mode of custody and investment of money,
- (xiii) The settlement of disputes touching or concerning the chit:

Provided that when the foreman proposes to be one of the subscribers, no bylaw or by-laws shall entitle him to any discriminatory advantage or to reserve for himself any special privileges or rights which normally are not available to other subscribers.

9. Amendment of bye-laws :-

(1) After the by-laws have been registered, a foreman may amend them by altering or rescinding any by-laws or by adding a new by law. No such amendment shall be made unless the existing non-prized subscribers or unpaid prized subscribers give their consent thereto.

(2) In special cases on an application made by at least 50 per cent of the existing subscribers of a chit or series of chits, the Registrar may register an amendment if the adoption of the proposed amendment is in interest of- the chit provided that the foreman shall be given due opportunity of being heard before such amendment is ordered by the Registrar.

(3) In every case of amendment of by-laws, whether by addition of new bylaws or by alteration or rescission of some of the existing by-laws by a foreman, an application accompanied by a fee prescribed for the purpose in rule 43 in court fee stamp affixed thereon for the registration of the by-laws as so amended shall be submitted to the Registrar alongwith the complete by-laws, in duplicate as so amended and as proposed to be registered.

(4) When the Registrar registers amended by-laws submitted to him under sub-rule (3) thereof, he shall retain one copy thereof and send another copy together with an endorsement of registration in the following manner. "Certified that the by-laws as amended, the. original copy of which has been filed with me, have been duly registered under Section 3 of the madras Chit Funds Act, 1961, as extended to the Union territory of Delhi. The by-laws as originally registered have been cancelled and stand substituted by these amended by-laws.

(5) In every case in which the Registrar refuses to register any amended bylaws, he shall record in writing the reasons for his refusal and communicate his decision to the applicant.

CHAPTER 3

Chit Agreement

10. Specification of security to be given by foreman in chit agreement :-

(1) If the foreman is offering cash security, the amount of security and the approved bank in which it has been deposited, shall be specified in the chit agreement.

(2) If the foreman is offering immovable property as security, a description of the property with such particulars as are required under the Indian Registration Act, 1908 (Central Act XVI of 1908) shall be given in the chit agreement.

(3) If the foreman is offering movable property as security, the manner in which or the authority with whom it shall be deposited as required under section 12, shall be specified in the agreement.

11. Filing of an endorsement on chit agreement :-

(1) The chit agreement shall be filed in duplicate with the Registrar within a fortnight of the date of its execution.

(2) Every chit agreement shall, before endorsement under sub-section (2) of section 6, be examined by the Registrar to ensure that all the requirements prescribed in the Act and these rules have been fulfilled. Any defect or irregularity noticed by the Registrar shall be removed before such endorsement.

(3) The Registrar shall make the following endorsement on the duplicate chit agreement as required by sub-section (2) of section 6 of the Act: Certified that the chit agreement has been filed with me on.....under section 6 of the Madras Chit Funds Act, 1961 as extended to the Union territory of Delhi. Dated Registrar

CHAPTER 4

Certificate of Commencement

12. Certificate of commencement :-

(1) Every application for certificate of commencement shall be made to the Registrar and shall bear the fee prescribed for the purpose in rule 44 in court fee stamps affixed therein.

(2) The certificate of commencement under sub-section (2) of section 7 shall be in Form CF III.

(3) No order refusing grant of commencement in any case shall be passed by the Registrar without giving the applicant an opportunity of being heard. A copy of every such order shall be sent to the

applicant.

13. Certificate under section 8(2) :-

The certificate under sub-section (2) of section 8 shall be filed in Form CF IV.

CHAPTER 5

Furnishing of Security

14. Proposal for giving a security :-

(1) Every proposal for giving a security under Section 12 shall be embodied in an application in Form CF V.

(2) Every application by a foreman proposing to give immovable property as security for the conduct of a chit shall clearly state correct and complete particulars regarding the property offered as security. Every such application shall be accompanied by

(i) an affidavit to the effect that the property is free from encumbrances; and

(ii) documents of title of the property.

15. Properties to be charged by way of security :-

(1) If the property proposed to be charged by way of security is movable property, it shall only be Government securities or Government Promissory

(2) If the property proposed to be charged by way of security is movable property other than the cash deposit, the foreman shall make all the necessary arrangements for their deposit with the Registrar, or with such bank or other agency as may be approved by the Registrar ensuring that the property is deposited available as security for the proper conduct of the chit.

(3) It shall be open to the Registrar not to accept any security or immovable property, where such property is situated outside the Union territory of Delhi.

(4) The Registrar or any officer empowered by him in this behalf shall, by inspection of the property and examination of records produced, satisfy himself to the sufficiency of the security for the realisation of at least one and a half times the chit amount.

16. Valuation of Property :-

(1) Where any property which in the opinion of the Registrar

requires valuation by a competent agency, the bank or any other authority appointed in this behalf by the Registrar with the prior approval of the Director of Chits, shall estimate the value of such property, and such valuation shall be final.

(2) Any fee or charge demanded for such valuation by such bank or authority shall be borne by the foreman.

17. Compulsory registration of indenture of mortgage and trust :-

The indenture of mortgage and trust executed by the foreman under section 12(1) (a) shall be duly registered under the Indian Registration Act, 1908 (Central Act XVI of 1908)

18. Substitution of security :-

A foreman may be permitted by the Registrar to offer substituted security in lieu of the one originally offered under section 12.

19. Sufficiency of security :-

(1) If the security offered is accepted as sufficient by the Registrar, he shall make a note of it in the application for furnishing security.

(2) Where the security offered is considered as insufficient, the Registrar shall, after giving the applicant an opportunity of being heard, pass an order in writing to that effect and communicate his decision to the foreman.

20. . :-

Pledging of cash security or fixed deposit or Post Office Saving Bank Account. In case the security offered in cash or fixed deposit in an approved bank or Post Office Savings Bank Account, the pass book or the fixed deposit receipt, as the case may be shall be, pledged with the Registrar. The Registrar shall thereupon intimate to the bank or the post office concerned, that the security amount shall not be disbursed except with the prior written sanction of the Registrar or of a competent court.

21. Approved Bank :-

For purposes of clause (1A) of section 2, the following banks shall be "approved".

(1) The Post Office Savings Bank.

(2) The State Bank of India conducting business within Delhi.

(3) The offices and branches in Delhi of the Banks which are

scheduled bank within the meaning of section 2(e) of the Reserve Bank of India Act, 1934 (Central Act 2 of 1934).

(4) Such other banks as may be approved by the Administrator of Delhi from time to time, for purposes of these rules.

22. Release of property charged by way of security :-

(1) Where a foreman desires the release of the property charged by way of security, or release of the cash securities or the Government Securities, as the case may be, under sub-section (4) of section 12, he shall make an application within ninety days of the termination of the chit.

(2) The Registrar may before passing an order of release, make or cause to be made such inquiries as he may deem necessary to satisfy himself that the requirements of sub-section 12(3) of section 12 have been fulfilled.

(3) In the event of the registrar refusing to release the property charged by way of security or to order the release of cash security, he shall pass an order in writing to that effect and communicate the same to the foreman.

23. Method of valuation of grains by Registrar :-

In the event of subscription of a chit being by way of certain quantity of grain by instalments, the valuation for purposes of security under section 12 shall be based on the basis of average price of the grain prevailing in the wholesale market of Delhi during 7 days immediately preceding of the chit agreement.

CHAPTER 6

A Foreman when Prized to Give Security

24. Foreman, if prized subscriber, to give security :-

(1) In the event of the foreman himself becoming a prized subscriber, he shall give security to the satisfaction of the Registrar for the payment of the future subscription.

(2) The security referred to in sub-rule (1) shall either be cash deposited in an approved bank or a security bond executed with two personal securities, each owning immovable property or a bond executed charging immovable property.

(3) If cash security is offered, an amount equal to the future subscriptions shall be deposited by the foreman in an approved

bank in a separate account in his name. The pass book thereof shall be handed over to the Registrar, and the facts intimated to the bank.

(4) If the security bond with two personal sureties is offered, the bond shall be for twice the amount of future subscriptions.

(5) The provisions of Chapter V, so far as they relate to giving of immovable property and release of charged property, shall apply mutatis mutandis to every application by the prized foreman for giving security of immovable property or for release of charged property.

25. Withdrawals from the cash deposit :-

No withdrawals from the cash deposit shall be effected by the foreman except to meet the payments in connection with the instalments of the chits as and when they fall due, and with the previous approval of the Registrar.

CHAPTER 7

Filing of Chit, etc. Records with the Registrar

28. Filing of true copies of chit record, etc :-

(1) Subject to the provisions of section 10 the minutes of proceedings shall contain inter alia the following details

(1) Name and address of the foreman.

(2) Reference No. and year of chit.

(3) No. of particular instalments to which the proceedings relate.

(4) Date, time and place of the draw of the chit.

(5) Name of the subscribers present.

(6) Reading and regarding of the minutes of the previous draw by the foreman.

(7) Full particulars regarding the disposal of the prize amount in respect of the preceding instalment and disposal of unpaid prize amount, if any, in respect of any previous instalment.

(8) Name (s) of the person(s) who become entitled to the prize amount in the instalment.

(9) Details of the bids offered including highest.

(10) Name of the prized subscriber, prize amount, discount, foreman's commission, etc.

(11) Details of objection, if any, raised by any subscriber and with what result.

(12) The Registrar may from time to time require a foreman to state such other particulars in the minutes of proceedings which he deems proper for the safe and fair conduct of a draw.

(13) The proceedings shall be signed by the foreman and all the subscribers present at the draw of the instalment to which they relate.

27. Presentation of chit records, etc :-

Chit records, documents or entries required to be filed under the Act, shall be presented in person or by letter by registered post to the Registrar either by the foreman or his authorised agent.

28. Minutes of proceedings :-

(1) Subject to the provisions of section 10 the minutes of proceedings shall contain inter alia the following details

(1) Name and address of the foreman.

(2) Reference No. and year of chit.

(3) No. of particular instalments to which the proceedings relate.

(4) Date, time and place of the draw of the chit.

(5) Name of the subscribers present.

(6) Reading and regarding of the minutes of the previous draw by the foreman.

(7) Full particulars regarding the disposal of the prize amount in respect of the preceding instalment and disposal of unpaid prize amount, if any, in respect of any previous instalment.

(8) Name (s) of the person(s) who become entitled to the prize amount in the instalment.

(9) Details of the bids offered including highest.

(10) Name of the prized subscriber, prize amount, discount, foreman's commission, etc.

(11) Details of objection, if any, raised by any subscriber and with what result.

(12) The Registrar may from time to time require a foreman to state such other particulars in the minutes of proceedings which he deems proper for the safe and fair conduct of a draw.

(13) The proceedings shall be signed by the foreman and all the subscribers present at the draw of the instalment to which they relate.

CHAPTER 8

Transfer of Right of the Foreman

29. Application for transfer of rights of the foreman :-

A foreman intending to transfer his right to receive subscriptions from prized subscribers, shall apply in writing to the Registrar for obtaining his sanction thereof.

30. Notice of non-prized and unpaid prized subscribers :-

On receipt of an application under rule 29, the Registrar shall give notice in writing to the non-prized and unpaid prized subscribers calling for objections, if any, within thirty days from the date of the notice.

31. . :-

Before passing orders on an application received under rule 29, the Registrar may conduct such enquiries as he deems fit and shall hear all objections received under rule 30.

CHAPTER 9

Registers and Books of Account

31. Maintenance of registers and books of account by a foreman :-

(1) In addition to the registers and books of foreman, he shall keep and maintain in relation to each chit separately:

(a) a true account of income and expenditure;

(b) a register of subscribers in Form CF VI;

(c) a day book in Form CF VII;

(d) a file of documents relating to the security offered by prized subscribers;

(e) a receipt book serially numbered; and

(f) a notice book.

32. . :-

The Registrar may, after serving a notice in writing, require a foreman to keep such other registers and books of account and in such form as the former in his discretion deems necessary for the safe and fair conduct of the chit business.

33. Preparation and filling of Balance Sheet :-

(1) The annual balance sheet to be prepared by the foreman under section 16 shall be in Form CF VII.

(2) A true copy of the balance sheet certified as such by the foreman and duly audited by the auditor(s) specified in sub-section (1) of section 16 shall be sent by the foreman within 60 days of the year to which it permits.

CHAPTER 10

Inspection of Chit Books and Records

34. Reasonable notice for inspection of chit books, etc :-

Unless the Registrar or Inspecting Officer authorised by the Director of Chits in this behalf deems it necessary to make a surprise visit, he shall give a reasonable notice of not less than 7 days in writing to the foreman of his intention of inspecting the accounts, registers, relating to a chit or chits and in fixing the date and place for the purpose shall as far as possible have due regard to the convenience of the foreman.

35. Foreman to provide facilities for inspection :-

Every foreman shall provide the Registrar or the Inspecting officer all facilities for inspection and furnish all information as required by the latter in regard to a chit and chits.

36. Submission of result of inspection :-

The Registrar or the Inspecting Officer, as the case may be, shall embody the result of every surprise in a report and submit it to the Director of Chits for information.

CHAPTER 11

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37. The Registrar and Inspecting Officer to have power of court in some matters :-

(1) The Registrar and the Inspecting Officer shall, for the purpose of the Act and the rules, have the same powers as are vested in a

Civil Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters regarding any chit agreement, namely: (a) enforcing the attendance of any person and examining him on oath or affirmation; or (b) compelling the production of document; or (c) issuing commission for the examination of witnesses and every proceeding under the Act before the Registrar or the Inspecting Officer shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

(2) The Registrar or Inspecting Officer may issue a summon in Form CF IX for the appearance of a person or the production of a document or documents by him.

38. Service of any notice or summon under the Act or these rules may be effected in any of the following ways, namely :-

(a) by sending it to the person concerned under a certificate of posting; or

(b) by giving or tendering it to the person concerned or his manager or agent, if any; or

(c) if any person concerned or his manager or agent, if any, cannot be found by living it at the last known place of business or residence of the person concerned or giving or tendering it to some adult male member of his family; or

(d) if none of the methods aforesaid is practicable by affixing it at or in some conspicuous part of the last known place of business of person concerned.

CHAPTER 12

Maintenance and Custody Books, paper and Documents, etc. in the Registrars Office

39. Prevention of chits records :-

The records of chits shall be preserved in the office of the Registrar for a period of at least 7 years from the date of termination of the chit.

40. Destruction of chits records :-

The records of chits may be destroyed by the Registrar after obtaining the previous sanction of the Director of Chits on or after the expiry of the time limit as prescribed in rule 39.

41. Notice regarding proposed destruction of records :-

A notice shall be affixed at a conspicuous place in his office by the Registrar regarding the proposed destruction of chit records within three months period to the date of destruction.

42. Maintenance of registers and submission of statements

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The Registrar shall maintain such registers and submit such statements and in such form as may be directed by the Director of Chits from time to time.

CHAPTER 13

Winding Up of Chit

43. . :-

Subject to the provisions of sections 38 to 50 the rules relating to the winding up of companies made under the Companies Act, 1956 (Central Act 1 of 1956) shall relate, as far as possible, to the winding up of chits under the Act.

CHAPTER 14

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44. . :-

The following fee shall be payable by way of deposit in treasury or in court fee stamps as specified below