

DELHI DEVELOPMENT AUTHORITY (ISSUE OF DEBENTURES) RULES, 1977

CONTENTS

1. Short title and commencement
2. Definitions
3. Form of Debenture and the mode of transfer thereof etc
4. Issue of Debenture
5. Payment of interest
6. Procedure when Debenture is lost, etc
7. Notification in Gazette
8. Issue of Duplicate Debenture and taking of indemnity
9. Publication of list
10. Determination of a mutilated Debenture as a Debenture requiring renewal
11. When a Debenture is required to be renewed
12. Person whose title to Debenture of a deceased sole holder may be recognised
13. Renewal etc. of Debenture
14. Renewal of Debenture in case of dispute as to title
15. Liability in respect of Debenture renewed etc
16. Discharge from liability in certain cases
17. Discharge in respect of interest
18. Discharge of Debenture

SCHEDULE 1 :- SCHEDULE 1

DELHI DEVELOPMENT AUTHORITY (ISSUE OF DEBENTURES) RULES, 1977

DELHI DEVELOPMENT AUTHORITY (ISSUE OF DEBENTURES)
RULES, 1977

1. Short title and commencement :-

- (1) These rules may be called the Delhi Development Authority (Issue of Debentures) Rules, 1977.
- (2) They shall come into force on the date of their publication in the official Gazette.

2. Definitions :-

In these unless the context otherwise requires

- (a) "Act" means the Delhi Development Act, 1957 (61 of 1957);
- (b) "Authority" means the Delhi Development Authority constituted under section 3 of the Act;
- (c) "Debenture" means a debenture issued by the Authority under sub-section (5) of section 23 of the Act and includes a bond issued by the Authority;
- (d) "Defaced Debenture" means a Debenture which has been made illegible and rendered undecipherable in material parts and the material parts on a Debenture are the parts where
 - (i) the number, the issue to which it appertains and the face value of the Debenture or payments of interest as recorded; or
 - (ii) the endorsement or the name of the payee is written; or
 - (iii) the renewal receipt is supplied.
- (e) "Form" means a form set out in the Schedule to these rules;
- (f) "Lost Debenture" means a debenture which has been lost and shall not include a Debenture which is in the possession of some person adversely to the claimant;
- (g) "Mutilated Debenture" means a Debenture which has been destroyed, or torn or damaged, in material parts thereof;
- (h) "Office of issue", in relation to a Debenture, means the office of the State Bank which sold the Debenture;
- (i) "Prescribed officer" means the such officer of the Authority or the State Bank which sold the Debenture;
- (j) "Registered holder", in relation to a Debenture, means the person whose name is entered as the holder of such Debenture in the register of holders of Debentures kept under sub-rule (2) of rule 4;
- (k) "State Bank" means the State Bank of India established under the State Bank of India Act, 1955 (23 of 1955).

3. Form of Debenture and the mode of transfer thereof etc :-

- (1) A Debenture shall be issued in the form of promissory note payable to, or to the order of a certain person.

(2) A Debenture shall be transferable by endorsement and delivery like a promissory note payable to order.

(3) No endorsement of a Debenture shall be valid unless made by the signature of the holder or his duly constituted attorney or representative, inscribed on the back of the Debenture itself.

(4) No writing on a Debenture is valid for the purpose of negotiation if such writing purports to transfer only part of the amount denominated by the Debenture.

(5) The Debenture shall be issued over the signature of the Vice-Chairman of the Authority which may be printed, engraved or lithographed or impressed by such other mechanical process as the Authority may direct and a signature so printed, engraved, lithographed or otherwise impressed shall be as valid as if it had been inscribed in the proper handwriting of the signatory himself.

4. Issue of Debenture :-

(1) The Debentures shall be issued through the State Bank.

(2) A list of the Debentures sold by the State Bank shall be forwarded to the office of the Authority for the purpose of entry in the register of holders of Debentures which shall be kept by the Authority.

(3) The register of holders of Debentures may be in one or more books and shall contain the following particulars in respect of holders of Debentures, namely

(a) the name and address, and the occupation if any, of each Debenture holder;

(b) the Debentures held by each holder, distinguishing each Debenture by the number, and the amount paid or agreed to be considered as paid on those Debentures;

(c) the date at which each person was entered in the register as a Debenture-holder; and

(d) the date at which any person ceased to be a Debenture holder.

5. Payment of interest :-

Interest due on a Debenture shall be paid by the office of issue or any other office of the State Bank specified in the Debenture prospectus, on presentation of the Debenture and subject to

compliance by the holder of the Debenture with such other formalities as the office of issue may require and such interest shall be paid to such holder by issuing an interest warrant in his favour payable at any of the offices of the State Bank specified on the interest warrant.

6. Procedure when Debenture is lost, etc :-

(1) Every application for the issue of a duplicate Debenture in the place of a Debenture which is alleged to have been lost, stolen, destroyed, mutilated or defaced, either wholly or in part shall be addressee to the office of issue, and shall contain the following particulars, namely

(a) particulars of the Debenture according to the following form
Debenture of Rs.....; No.....of the.....per cent
Debenture.....;

(b) last half year for which interest has been paid;

(c) the person to whom such interest was paid;

(d) the person in whose name the Debenture was issued (if known);

(e) the place of payment of interest at which the Debenture was enfaced;

(f) the circumstances attending the loss, theft, destruction, mutilation or defacement; and

(g) whether the loss, theft or destruction was reported to the police.

(2) Every application referred to in sub-rule(1) shall be accompanied by

(a) where the Debenture was lost in the course of transmission by registered post, the post office registration receipt for the cover containing the Debenture;

(b) If the loss, theft or destruction was reported to the police, a copy of the police report;

(c) where the last payment of interest was made not by the office of issue, a letter signed by the Manager of the State Bank where interest was last paid, certifying the last payment of interest due on the Debenture and stating the name of the party to whom such

payment was made;

(d) if the applicant is not the registered holder, an affidavit sworn before a magistrate testifying that the applicant was the last legal holder of the Debenture, and all documentary evidence necessary to trace back the title of the applicant to the registered holder; and

(e) any portion or fragments which may remain of the lost, stolen, destroyed mutilated or defaced Debenture.

(3) A copy of the application addressed to the office of issue shall also be sent to the office of the State Bank where interest is payable if the interest on such Debenture is payable at an office at the State Bank other than the office of issue. Provided that it shall not be necessary to send with the copy of the application the documents referred to in sub-rule (2).

7. Notification in Gazette :-

(1) The loss, theft, destruction, mutilation or defacement of a Debenture or portion of a Debenture shall forthwith be notified by the application three successive issues of the Gazette of India and of the Official Gazette of the State wherein the loss, theft, destruction, mutilation or defacement occurred.

(2) The notification under sub-rule (1) shall be, or as nearly as may be as the circumstances permit, in the following form, namely "Loss", (or "stolen" or "destroyed" or "mutilated" or "defaced" as the case may be). The Delhi Development Authority Debenture No. of theper cent Debenture for Rs.....originally standing in the name of.....and last endorsed to.....the proprietor, by whom it was never endorsed to any other person having been lost (stolen, destroyed, mutilated, or defaced, as the case may be), notice is hereby given that payment of the above debenture and the interest thereupon has been stopped at the office of issue, and that application is about to be made (has been made) for the issue of a duplicate Debenture in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned Debenture. Name of person notifying. Place..... Residence. Date.....

8. Issue of Duplicate Debenture and taking of indemnity :-

(1) After the last publication of the notification referred to in rule 7,

the Prescribed Officer shall, if he is satisfied of the loss, theft, destruction, mutilation or defacement of the debenture and of the authenticity of the claim of the applicant

(A) cause the particulars of the Debenture to be included in a list which shall be published as provided in rule 9; and

(B) order the office of issue

(a) where only a portion of the Debenture has been lost, stolen, destroyed, mutilated or defaced, and the remaining portion thereof which is sufficient for its identification has been produced, to pay to the applicant the interest, if any, due thereon, and to issue to him on execution of an indemnity bond in the manner hereinafter provided, a stolen, destroyed, mutilated or defaced either immediately after the publication of the list under rule 9 to on the expiry of such further period as the Prescribed Officer may consider necessary, from the date of the publication of the said list;

(b) if no portion of the Debentures so lost, destroyed, mutilated or defaced has been produced or the portion produced is not sufficient for its identification

(i) to pay to the applicant, on the expiry of two years after the publication of the aforesaid list, and on the execution of an indemnity bond in the manner hereinafter provided the interest due in respect of the Debenture so lost, stolen, destroyed, mutilated or defaced and to continue to pay to the applicant such interest until the expiry of a period of six years from the date of the publication of the said list.

(ii) to issue to the applicant a duplicate Debenture in the place of the Debenture so lost, stolen, destroyed, mutilated or defeated on the expiry of the said period of six years;

Provided that

(a) if the date on which the Debenture is due for repayment falls earlier than the date on which the said period of six years expires, the Prescribed Officer shall within six weeks of the former date repay to the applicant the principal amount due on the Debenture together with the interest which may have accrued thereon and remains outstanding; and

(b) if at any time before the issue of the duplicate Debenture the original Debenture is discovered, or it appears to the office of issue

that for oilier reasons the order should be rescinded, the matter shall be referred to the Prescribed Officer for further consideration and in the meantime all action on the order shall be suspended.

(2) Subject to the provisions of sub-rule (3) any order made by the Prescribed Officer under sub-rule (1) shall, on the expiry of the period of six years referred to therein become final.

(3) The Prescribed Officer may, at any time prior to the issue of a duplicate Debenture, for sufficient reason, alter or cancel any order made by him under sub-rule (1) and may also direct that the interval before the issue of a duplicate Debenture shall be extended by such period not exceeding six years as he may think fit in the circum- stances of the case or that before any amount under clause (a) of the proviso to sub-rule (1) is paid an indemnity bond shall be taken from the applicant.

(4) Indemnity bonds

(a) when executed under sub-clause (a) of clause (B) of sub-rule (1) shall be for twice the amount of interest involved, that is to say, twice the amount of all back interest accrued due on the Debenture plus twice the amount of all interest to accrue due thereon during the period which will have to elapse before the issue of a duplicate Debenture can be made; and

(b) when executed under any other provision of this rule shall be for twice the face value of the Debenture plus twice the amount of interest calculated in accordance with clause (a) and such indemnity bond shall be executed by the applicant alone or by the applicant and one or two sureties approved by the Prescribed Officer, or such Prescribed Officer may direct.

9. Publication of list :-

(1) The list referred to in rule 9 shall be published half-relay in the Gazette of India in the month of January and July or as may be convenient.

(2) All Debenture in respect of which an order has been made under rule 10 shall be included in the first list published next after the passing of such order and thereafter such Debenture shall continue to be included in every succeeding list until the expiration of six years from the date of publication of the list in which it was first included.

(3) The list shall contain the following particulars regarding each Debenture included therein namely, the name of the issue, the number of the Debenture, its value, the name of the person to whom it was issued the date from which it bears interest the name of the applicant for a duplicate Debenture, the number and date of the order made by the Prescribed Officer for the payment of interest or issue of a duplicate.

10. Determination of a mutilated Debenture as a Debenture requiring renewal :-

In the case of a Debenture which has mutilated or defaced, the Prescribed Officer may, having regard to the nature and extent of the mutilation or defacement, decide whether it is a case requiring of a duplicate Debenture under rule 8 or whether the Debenture could be renewed under rule 3.

11. When a Debenture is required to be renewed :-

(1) A holder of a Debenture may be required by the Office of issue to receipt the same for renewal in any of the following cases, namely

(a) if sufficient room remains on the back of the Debenture only for one further endorsement or if any word is written upon the Debenture across the existing endorsement or endorsements;

(b) if the Debenture is torn or in any way damaged or crowded with writing or unfit for further use in the opinion of the office of issue;

(c) if any endorsement is not clear and distinct or does not indicate the payee or payees, as the case may be, by name or is made otherwise than in case of the endorsement cages on the back of the Debenture;

(d) if the interest on the Debenture has remained undrawn for ten years or more;

(e) if the interest cages on the reverse of the Debenture have been completely filled or if the vacant cages on the reverse of the Debenture do not correspond with the half years for which interest has become due on the date when the Debenture is presented for drawal of interest.

(f) if the Debenture having been enfaced three times for payment of interest is presented for re-enfacement; and

(g) if in the opinion of the office of issue the title of the person presenting the Debenture for payment of interest is irregular or not fully proved.

(2) When requisition for renewal of Debenture has been made under sub-rule (1) payment of any further interest thereon shall be refused until it is receipted for renewal and actually renewed.

12. Person whose title to Debenture of a deceased sole holder may be recognised :-

(1) Where the sole holder of a Debenture has died, the executors or administrators of such sole holder (whether a Hindu, Mohammedan, Parsi or otherwise) or the holder of a succession certificate issued under Part X of the Indian Succession Act, 1925 (29 of 1925) in respect of the Debenture shall be the only persons who shall be recognised by the office of issue (subject to any general or special instructions of the Prescribed Officer) as having any title to the Debenture.

(2) In the case of a Debenture issued, sold or held payable to two or more holders, the survivors or survivor, as the case may be, and on the death of the last survivor (whether such last survivor is a Hindu, Mohammedan, Parsi or otherwise) his executors, administrators, or any person who is the holder of a succession certificate in respect of such Debenture shall be the only person who shall be recognized by the office of issue (subject to any general or special instructions of the Prescribed Officer) as having any title to the Debenture and for the purposes of section 45 of the Indian Contract Act, 1872 (9 of 1872), this provision shall be deemed to be a term of the contract indicating an intention contrary to the provisions of that section.

(3) The office of issue shall not be bound to recognise such executors or administrators unless they shall have obtained probate or letters of administration, as the case may be, from a competent court of authority having jurisdiction over the place where the office of issue is situated;

Provided that if in any case the Prescribed Officer having regard to the circumstances of the case so thinks fit, it shall be lawful for him to dispense with the production of probate or letters of administration upon such terms as to indemnity or otherwise as he may think fit.

13. Renewal etc. of Debenture :-

(1) Subject to any general or special instructions of the Prescribed Officer, the office of issue may, on the application of the holder and on his delivering the Debenture or Debentures concerned and on his satisfying the office of issue regarding the authenticity of his claim, by order, renew, sub divide or consolidate a Debenture or Debentures; Provided that the Debenture or Debentures has or have been receipted in Form 1, or Form II, or Form III, as the case may be.

(2) The office of the issue may, if so ordered by the Prescribed Officer, require the applicant for renewal, sub-division or consolidation of a Debenture or Debentures under the sub-rule (1) to execute an indemnity bond in Form IV with one or more sureties approved by the Prescribed Officer.

14. Renewal of Debenture in case of dispute as to title :-

Where there is a dispute as to the title to a Debenture in respect of which an application for renewal has been made the Prescribed Officer may

(a) where any party to the dispute has obtained a final decision from a court of competent jurisdiction declaring him to be entitled to such Debenture, issue a renewed Debenture, in favour of such party, or

(b) refuse to renew the Debenture until a decision as is to in clause (a) has been obtained from a court of competent jurisdiction. Explanation, For the purposes of this rule the expression "final decision means a decision which is not appealable or a decision which is appealable but the time for appealing has expired without an appeal having been preferred.

15. Liability in respect of Debenture renewed etc :-

When a duplicate Debenture has been issued under rule 3 or when a renewed Debenture has been issued or a new Debenture has been issued upon sub-division or consolidation, under rule 13, in favour of a person, the Debenture so issued or renewed shall be deemed to constitute a new contract between the Authority and such person and all persons deriving title thereafter through him.

16. Discharge from liability in certain cases :-

The Authority shall be discharged from all liability in respect of the Debenture or Debentures paid on maturity or in the place of which

a duplicate, renewed, sub-divided or consolidated Debenture or Debentures has or has been issued

(a) in the case of payment on the expiry of six years from the date on which such payment was due;

(b) in the case of the issue of a duplicate Debenture, on the expiry of six years from the date of the publication under rule 9 of the list in which the Debenture is first included or from the date of the payment of interest on the original Debenture, whichever date is later;

(c) in the case of a renewed Debenture or of a new Debenture issued upon sub-division or consolidation, on the expiry of six years from the date of issue thereof.

17. Discharge in respect of interest :-

Save as otherwise expressly provided in the terms of the Debenture no person shall be entitled to claim interest on any such Debenture in respect of any period which has elapsed after the earliest date on which demand could have been made for the payment of the principal amount due on such Debenture.

18. Discharge of Debenture :-

When a Debenture becomes due for repayment of principal, the Debenture shall be presented at the office of the State Bank of India at which the interest thereon is payable or at the officer of issue, duly signed by the holder of the Debenture on its reverse.

SCHEDULE 1

SCHEDULE 1