

Haryana Agricultural Credit Operations And Miscellaneous Provisions (Banks) Act, 1973

34 of 1973

[16 August 1973]

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short Title, Extent And Commencement
2. Definitions

CHAPTER 2 :-RIGHTS OF AGRICULTURISTS TO CREATE CHARGE ON LAND AND INTERESTS THEREIN IN FAVOUR OF BANKS

3. Charge On Crop And Other Movable Property In Favour Of Bank
4. Creation Of Charge On Land In Favour Of Bank By Declaration

CHAPTER 3 :-CHARGES AND MORTGAGES IN FAVOUR OF BANKS AND THEIR PRIORITIES

5. Removal Of Disability In Creation Of Charges And Mortgages
6. Priority Of Charges And Mortgages In Favour Of Government, Bank And Cooperative Society
- 6A. Registration Of Charge And Mortgage In Favour Of Banks
- 6B. Noting Of Charge Or Mortgage, Created In Favour Of Bank, In Record-Of-Rights
7. Restrictions On Creation Of Tenancy By Agriculturist Borrower

CHAPTER 4 :-ARRANGEMENTS FOR RECOVERY OF DUES BY BANKS

8. Recovery Of Dues Of Bank Through Prescribed Authority
- 8A. Recovery In Case Of Personal Security
9. Right Of Bank To Acquire And Dispose Of Immovable Property

CHAPTER 5 :-FINANCING OF CO-OPERATIVE SOCIETIES BY BANKS

10. Bank Eligible To Become Member Of Cooperative Society
11. Power Of Cooperative Societies To Borrow From Banks
12. Inspection Of Books Of Cooperative Society By Bank
13. Disputes Between Bank And Cooperative Society
14. Settlement Of Disputes

15. Procedure For Hearing Of Disputes
16. Decision Of Registrar Or This Nominee Or Board Of Nominees
17. Recovery Of Money Awarded
18. Powers Of Banks To Proceed Against Defaulting Members Of Cooperative Society
19. Audit, Inspection And Inquiry Reports Of Societies To Be Available To Banks

CHAPTER 6 :- MISCELLANEOUS

20. Exemption From Legislations Relating To Money Lending And Agriculturists Debt Relief
21. Mortgages Executed By Managers Of Joint Hindu Families
22. Modified Application Of Section 8 Of Act 32 Of 1956
23. Power To Make Rules

SCHEDULE 1 :- SCHEDULE I

Haryana Agricultural Credit Operations And Miscellaneous Provisions (Banks) Act, 1973

34 of 1973

[16 August 1973]

An Act to make provisions to facilitate adequate flow of credit for agricultural production and development through banks and other institutional credit agencies and for matters connected therewith or incidental thereto. Be it enacted by the Legislature of the State of Haryana in the Twenty-fourth Year of the Republic of India as follows:-- 1. For Statement of Objects and Reasons, see Haryana Government Gazette (Extraordinary), dated the 3rd April, 1973, page 798. 2. For Statement of Objects and Reasons, see Haryana Government Gazette (Extraordinary), dated the 3rd April, 1973, page 470.

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Haryana Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act, 1973.
- (2) It extends to the whole of the State of Haryana.
- (3) It shall come into force on such* date as the State Government may, by notification, appoint and different dates may be appointed for different provisions of this Act and for different areas of the State.

* Appoint the 28th August, 1974 as the date on which the said Act shall come into force vide Haryana Govt. Agriculture Deptt. notification No. ARC-II-74/ 27168, dated the 22nd November, 1974 (Extraordinary).

2. Definitions :-

In this Act, unless the context otherwise requires,--

(a) "agriculture" and "agricultural purpose" shall include making land fit for cultivation, cultivation of land, improvement of land including development of sources of irrigation, raising, protecting and harvesting of crops, horticulture, forestry, planting and farming, cattle breeding, animal husbandry, dairy farming, seed farming, pisciculture, apiculture, sericulture, piggery, poultry farming and such other activities as are generally carried on by agriculturists, dairy farmers, cattle breeders, poultry farmers and other categories of persons engaged in similar activities including marketing of agricultural products, their storage and transport and the acquisition of implements and machinery in connection with any such activity ;

(b) "agriculturist" means a person who is engaged in agriculture ;

(c) "Agro-Industries Corporation" means a company or other body corporate, one of the principal objectives of which is to undertake activities connected with or intended for the development of agriculture and not less than fifty one per centum of the paid up share capital of which is held by the Central Government or by any State Government or Government or partly by the Central Government and partly by one or more State Governments ;

(d) "bank" means --

(i) a banking company as defined in the Banking Regulation Act, 1949 ;

(ii) the State Bank of India constituted under the State Bank of India Act, 1955 ;

(iii) a subsidiary bank as defined in the State Bank of India (Subsidiary Bank) Act, 1959 ;

(iv) any of the banks mentioned in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 ;

1[(v)]

(vi) the Agricultural Refinance Corporation constituted under the Agricultural Refinance Corporation Act, 1963 ;

(vii) the Agro-Industries Corporation as defined in sub-clause (c);

- (viii) the Agricultural Finance Corporation Limited, a company incorporated under the Companies Act, 1956 ; and
- (ix) any other financial institution notified by the State Government in the Official Gazette as a bank for the purposes of this Act ;
- (e) "co-operative society" means a co-operative society as defined in clause (c) of section 2 of the Punjab Co-operative Societies Act, 1961, the object of which is to provide financial assistance as defined in clause (f) of this section to its members and includes the co-operative land mortgage bank ;
- (f) "financial assistance" for the purposes of this Act means assistance granted by way of loans, advances, guarantee or otherwise for agricultural purpose ;
- (g) "Registrar" means the Registrar as defined in the Punjab Co-operative Societies Act, 1961.
1. Omitted by Haryana Act 17 of 1978.

CHAPTER 2

RIGHTS OF AGRICULTURISTS TO CREATE CHARGE ON LAND AND INTERESTS THEREIN IN FAVOUR OF BANKS

3. Charge On Crop And Other Movable Property In Favour Of Bank :-

(1) It shall be lawful for an agriculturist to create a charge on the movable property owned by him or on the crops raised by him, standing or otherwise or other produce from land cultivated by him, to the extent of his interest therein, in favour of a bank, to secure financial assistance from that bank, notwithstanding that he may not be the owner of the land on and from which the crop is raised.

(2) Notwithstanding anything to the contrary contained in the Punjab Co-operative Societies Act, 1961, or any other law for the time being in force, no charge in respect of financial assistance extended by a co-operative society to an agriculturist shall have priority over a charge on the crops raised by him, standing or otherwise, or any other movable property in respect of any financial assistance given to him by a bank :

1[Provided that the financial assistance made by the bank is prior in point of time to that of the financial assistance extended by the cooperative society.]

2[(3)]

(4) The Registrar of Co-operative Societies, or any other person appointed by him in this behalf, shall prepare a list of co-operative societies registered under the Punjab Co-operative Societies Act,

1961, and publish the same in the Official Gazette after such interval as may be prescribed.

(5) A bank may distrain and sell through an official of the State Government, designated in this behalf by the State Government, the crop or other produce or other movables charged, to that bank to the extent of the agriculturists interest therein and appropriate the proceeds of such sale towards all moneys due to the bank from that agriculturist.

1. Substituted by Haryana Act 17 of 1978.
2. Omitted by ibid.

4. Creation Of Charge On Land In Favour Of Bank By Declaration :-

(1) Where an agriculturist creates a charge on land, or any other immovable property which he owns or in which he has an interest in respect of any financial assistance given to him by a bank, he may make a declaration on the lines of the form set out in the Schedule hereto or as near thereto as circumstances permit, declaring that thereby he creates, in favour of the bank, a charge on such land or his interest therein or other immovable property, as the case may be, to secure the financial assistance given to him by the bank.

(2) A declaration made under sub-section (1) may be varied from time to time by the agriculturist with the consent of the bank in whose favour the declaration has been made. Such variation shall take effect 1[from such date on which the variation, if it had been an original declaration, would have effect under section 6A.]

1. Substituted by Haryana Act 17 of 1978.

CHAPTER 3

CHARGES AND MORTGAGES IN FAVOUR OF BANKS AND THEIR PRIORITIES

5. Removal Of Disability In Creation Of Charges And Mortgages :-

Notwithstanding anything to the contrary contained in the Punjab Co-operative Societies Act, 1961, or any other law for the time being in force and notwithstanding that any land or interest therein stands already charged or mortgaged to a co-operative society, it shall be lawful for an agriculturist to create a charge or mortgage on such land or interest therein in favour of a bank as security for any financial assistance given to the agriculturist by that bank.

6. Priority Of Charges And Mortgages In Favour Of Government, Bank And Cooperative Society :-

(1) Notwithstanding anything to the contrary contained in any law for the time being in force but subject to any prior claim of the State Government in respect of land revenue,--

(a) no charge or mortgage created on any land or interest therein, after the commencement of this Act, in favour of the Government or a cooperative society shall have priority over a charge or mortgage on such land or interest created by an agriculturist in favour of a bank as security for financial assistance given to the agriculturist by the bank after the commencement of this Act and prior to the charge or mortgage in favour of the State Government or the cooperative society ; and

(b) any charge or mortgage created on any land or interest therein in favour of a bank in respect of financial assistance given to an agriculturist by that bank shall have priority over any other charge or mortgage that may have been created over such land or interest in favour of any person other than the State Government, a co-operative society or any other bank, prior to the date on which the charge or mortgage was created in favour of the bank.

(2) Where different charges or mortgages over the same land or interest therein have been created by an agriculturist in favour of the State Government, a co-operative society or a bank or more than one bank, any such charge or mortgage created as security for financial assistance given by the State Government, co-operative society or the bank or banks by way of term loan for development purposes shall have priority over the other charges or mortgages created in favour of the State Government, co-operative societies or any of the banks; provided that prior notice of any such financial assistance by way of term loan for development purposes had been given to the State Government, co-operative society or bank and the State Government, co-operative society or bank has concurred in such financial assistance, and where more than one such charge or mortgage is as security for financial assistance given by way of term loan, the charges or mortgages by way of security for term loan for development purposes will rank for priority in accordance with the dates of their creation.

Explanation.-- For the purposes of this section "term loan for development purposes" shall mean financial assistance which would generally lead to improvement of agriculture or building up of assets in agriculture but shall not include financial assistance for

meeting working capital, expenses for seasonal agricultural operations and marketing of crops.

(3) Nothing contained in this section shall apply to borrowings only from one or more co-operative societies including land mortgage banks.

6A. Registration Of Charge And Mortgage In Favour Of Banks :-

1[(1) Notwithstanding anything contained in the Registration Act, 1908, a charge in respect of which a declaration has been made under sub-section (1) of section 4 or in respect of which a variation has been made under sub-section (2) of that section or a mortgage executed by an agriculturist in favour of a bank in respect of financial assistance given by that bank, shall be deemed to have been duly registered in accordance with the provisions of that Act with effect from the date of such charge, variation or mortgage, as the case may be :

Provided that the bank sends to the Sub-Registrar within the local limits of whose jurisdiction the whole or any part of the property charged or mortgaged is situate, within the time stipulated by the State Government for this purpose, by a registered post acknowledgement due, the document creating such charge, variation or mortgage.

(2) The Sub-Registrar receiving the declaration in respect of a charge or variation or a mortgage referred to in sub-section (1) shall, as immediately as practicable on receipt thereof, record, in a register to be maintained in this behalf, the fact of the receipt of such declaration, variation or mortgage for registration.

1. Inserted by Haryana Act 17 of 1978.

6B. Noting Of Charge Or Mortgage, Created In Favour Of Bank, In Record-Of-Rights :-

Whenever a charge or a mortgage on land or interest therein is created in favour of a bank by an agriculturist, the bank may give intimation to the tahsildar or such other revenue officer as may be designated in this behalf by the State Government, of the particulars of the charge or mortgage in its favour. The tahsildar or the other revenue official shall make a note of the particulars of charge or mortgage in the record-of-rights relating to the land over which the charge or mortgage has been created.]

7. Restrictions On Creation Of Tenancy By Agriculturist Borrower :-

(1) Notwithstanding anything contained in any law for the time being in force, an agriculturist who has availed himself of financial assistance from a bank by creating a charge or mortgage on land or interest therein, shall not, so long as the financial assistance continues to be outstanding, lease or create any tenancy rights on such land or interest therein without prior permission in writing of the bank if he has not already leased or created tenancy rights thereon at the time of availing of the financial assistance from the bank.

(2) Any lease granted or tenancy rights created in contravention of this section shall be void.

CHAPTER 4

ARRANGEMENTS FOR RECOVERY OF DUES BY BANKS

8. Recovery Of Dues Of Bank Through Prescribed Authority

:-

(1) An official of the State Government notified by the State Government as the prescribed authority for the purpose of this section may, on the application of a bank, make an order against any agriculturist or his heir or legal representative, directing the payment of any sum due to the bank on account of financial assistance availed of by the agriculturist, by the sale of any land or any interest therein upon which the payment of such money is charged or mortgaged :

Provided that no order shall be made by the prescribed authority under this section for the sale of any land or any interest therein or any other immovable property upon which the payment of money is charged or mortgaged unless the agriculturist or the heir or legal representative of the agriculturist as the case may be, has been served with a notice by the prescribed authority calling upon him to pay the amounts due.

(2) Every order passed by the prescribed authority under subsection (1) shall be deemed to be a decree of a civil court and shall be executed in the same manner as a decree of such court.

1[(3)]

1. Omitted by Haryana Act 17 of 1978.

8A. Recovery In Case Of Personal Security :-

1[(1) Where any amount of financial assistance is granted by a bank to an agriculturist and the agriculturist fails to pay the amount together with interest on the due date, then without prejudice to the other provisions of this Act, the local principal officer of the bank, by whatever name called, may forward to the Collector a certificate in the manner prescribed, specifying the amount due from the agriculturist.

(2) The certificate referred to in sub-section (1) may be forwarded to the Collector within a period of three years from the date when the amount specified in the certificate fell due.

(3) On the receipt of the certificate, the Collector shall proceed to recover from the agriculturist, the amount specified therein as arrears of land revenue.

Explanation.-- For the purposes of this section, the expression Collector means the Collector of the district in which the agriculturist ordinarily resides or carries on the activities referred to in clause (a) of section 2 or where movable or immovable property of the agriculturist is situate, and includes any officer authorised by the State Government in that behalf.]

1. Inserted by ibid.

9. Right Of Bank To Acquire And Dispose Of Immovable Property :-

(1) Notwithstanding anything contained in any law for the time being in force, a bank shall have the power to itself acquire agricultural land or interest therein or any other immovable property which has been charged or mortgaged to it by an agriculturist in respect of any financial assistance availed of by him, provided the said land or interest therein or any other immovable property has been sought to be sold by public auction and no person has offered to purchase it for a price which is sufficient to pay to the bank the moneys due to it.

(2) A bank which acquires land or interest therein or any other immovable property in exercise of the power vested in it under sub-section (1) shall dispose it of by sale, within a period to be specified by the State Government in this behalf.

(3) If the bank has to lease out any land acquired by it under sub-section (1), pending sale thereof as indicated in sub-section (2), the period of lease shall not exceed one year at a time the lessee shall not acquire any interest in that property notwithstanding any provision to the contrary contained in any other law for the time being in force.

CHAPTER 5

FINANCING OF CO-OPERATIVE SOCIETIES BY BANKS

10. Bank Eligible To Become Member Of Cooperative Society :-

Notwithstanding anything contained in the Punjab Co-operative Societies Act, 1961, or any law for the time being in force, it shall be lawful for a bank to become a member of a co-operative society.

11. Power Of Cooperative Societies To Borrow From Banks :-

Notwithstanding anything contained in the Punjab Co-operative Societies Act, 1961, it shall be lawful for any cooperative society to borrow from a bank.

12. Inspection Of Books Of Cooperative Society By Bank :-

(1) A bank shall have the right to inspect the books of any

cooperative society which has either applied to the bank for financial assistance or is indebted to the bank on account of financial assistance granted earlier.

1[(2)]

(3) The officer or any other member of the paid staff of the bank undertaking such inspection, shall, at all reasonable times, have access to the books of accounts, documents, securities, cash and other properties belonging to or in the custody of the co-operative society inspected by him, and shall also be supplied by such society such information, statements and returns as may be required by him to assess the financial condition of the society in order to ensure the safety of financial assistance to be made or already made to it.

1. Omitted by Haryana Act 17 of 1978.

13. Disputes Between Bank And Cooperative Society :-

(1) Notwithstanding anything contained in any other law for the time being in force, any dispute touching the constitution, management or the business of a co-operative society, between a bank financing a cooperative society, and the co-operative society so financed other than disputes regarding the disciplinary action taken by the society or its committee against a paid employee of the society, shall be referred by either of the parties to the dispute to the Registrar for decision.

(2) Where any question arises whether, for purposes of the forgoing sub-section, a matter referred to for decision is a dispute or not, the question shall be decided by the Registrar whose decision shall be final.

14. Settlement Of Disputes :-

(1) If the Registrar is satisfied that any matter referred to him or brought to his notice is a dispute within the meaning of section 13, the Registrar shall decide the dispute himself or refer it for disposal to the nominee or a board of nominees appointed by him.

(2) Where any dispute is referred under the foregoing subsection for decision to the Registrars nominee or board of nominees, the Registrar may at any time, for reasons to be recorded in writing, withdraw such dispute from his nominee or board of nominees and may decide the dispute himself or refer it again for decision to any other nominee or board of nominees appointed by him.

(3) Notwithstanding anything contained in section 13, the

Registrar may, if he thinks fit, suspend proceedings in regard to any dispute if the question at issue between a cooperative society and a bank is one involving complicated questions of law and fact, until the question has been tried in a regular suit instituted by one of the parties to the dispute. If any such suit is not instituted within two months from the Registrars order suspending proceedings, the registrar shall take action as is provided in subsection (1).

15. Procedure For Hearing Of Disputes :-

The Registrar or his nominee or board of nominees hearing a dispute under the last preceding section shall hear the dispute in the manner that may be prescribed by the Registrar in this behalf.

16. Decision Of Registrar Or This Nominee Or Board Of Nominees :-

(1) When the dispute is referred for decision, the Registrar or his nominee or the board of nominees may, after giving a reasonable opportunity to the parties to the dispute to be heard, make an award on the dispute, on the expenses incurred by the parties to the dispute in connection with the proceedings and fees, expenses payable to the Registrar or his nominee or as the case may be, to the board of nominees. Such an award shall not be invalid merely on the ground that it was made after the expiry of the period fixed for deciding the dispute by the Registrar and 1[shall, subject to appeal to the State Government, be binding on the parties to the dispute.]

2[(2) An appeal against the decision of the Registrar under subsection (1) shall be made within a period of sixty days from the date of decision to the State Government.]

1. Substituted by Haryana Act 17 of 1978.

2. Inserted by ibid.

17. Recovery Of Money Awarded :-

Every award given by the Registrar or the Registrars nominee or the board of nominees under section 16, shall, if not carried out, on a certificate signed by the Registrar, be deemed to be a decree of a civil court and shall be executed in the same manner as a decree of such court.

18. Powers Of Banks To Proceed Against Defaulting

Members Of Cooperative Society :-

(1) If a co-operative society is unable to pay its debts to a bank from which it has borrowed, by reason of its members defaulting in the payment of the money due by them, the bank may direct the committee of such society to proceed against such members of taking action under the Punjab Cooperative Societies Act, 1961.

(2) If the committee of the co-operative society fails to proceed against its defaulting members within a period of ninety days from the date of receipt of such direction from the bank, the bank itself may proceed against such defaulting members in which even the provisions of the Punjab Co-operative Societies Act, 1961, the rules and bye-laws made thereunder shall apply as if all references to the society or its committee in the said provisions rules and bye-laws were references to the bank.

(3) Where a bank has obtained a decree or award against a cooperative society indebted to it, the bank may proceed to recover such money firstly from the assets of the co-operative society and secondly from the members of the co-operative society to the extent of their debts due to the society.

19. Audit, Inspection And Inquiry Reports Of Societies To Be Available To Banks :-

The Registrar shall draw the attention of the bank financing a co-operative society to the defects noticed in every audit, inquiry or inspection of such society conducted as per provisions of the Punjab Cooperative Societies Act, 1961, and shall also supply a copy of such audit, inquiry or inspection report if demanded, in writing by the bank.

CHAPTER 6 MISCELLANEOUS

20. Exemption From Legislations Relating To Money Lending And Agriculturists Debt Relief :-

Nothing in any law for the time being in force dealing with money lending or agriculturists debt relief shall apply to financial assistance availed of by an agriculturist from a bank.

21. Mortgages Executed By Managers Of Joint Hindu Families :-

(1) Notwithstanding anything contained in any law for the time being in force, mortgages executed after the commencement of this Act by the manager of a joint Hindu family in favour of a bank for securing financial assistance for an agricultural purpose shall be binding on every member of such joint Hindu family.

(2) Where a mortgage executed in favour of bank is called in question on the ground that it was executed by the manager of joint Hindu family for a purpose not binding on the members (whether such members have attained majority or not) thereof, the burden of proving the same shall lie on the party alleging it.

22. Modified Application Of Section 8 Of Act 32 Of 1956 :-

Section 8 of the Hindu Minority and Guardianship Act, 1956, shall apply to mortgages in favour of a bank subject to the modification that reference to the court therein shall be construed as reference to the Collector or his nominee and the appeal against the order of the Collector or his nominee shall lie to the Commissioner.

23. Power To Make Rules :-

(1) The State Government may make rules to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act and all such rules shall be published in the Official Gazette.

(2) The rules framed under sub-section (1) shall be subject to previous publication.

(3) Every rule made under this section shall be laid as soon as may be after it is made, before the Haryana Legislative Assembly while it is in session and if, before the expiry of the session in which it is so laid or the session immediately following, the House makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

SCHEDULE 1

SCHEDULE I

Declaration under section 4(1)

I, _____ (aged _____ years) residing at _____, being desirous of availing myself of financial assistance from the _____ bank, make this declaration as required by section 4(1) of the Haryana Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act, 1973, that I, _____ own/ have interest as a tenant in the land

specified below, and I hereby create a charge on the said land/ interest in land in favour of the bank for securing the financial assistance which the bank may make and for all future assistance, if any, which the bank may make to me together with interest and costs and expenses thereon.

Name of Revenue Estate	Name of Tehsil	Name of District	Khasra Number	Boundaries South, North East, West	Area in Acres
1	2	3	4	5	6

Encumbrances, if any

Assessment Rupees Paise		Approximate Value	Nature	Amount	Remarks, if any
7	8	9	10	11	

In witness whereof, I, _____ here under set my hand this _____ day of _____ in the year one thousand nine hundred and _____.

Witnesses :

Signed and delivered by the above named in the presence of--

(1) _____

(2) _____

Signature of Declarant.

1[Attested by

Forwarded with compliments to the Tahsildar/Revenue Officer concerned with a request to include the particulars of the charge....created under the declaration in the record of rights and to return to the bank for its record.

Manager/ Agent

..... Bank

Place

Returned _____ with compliments _____ to _____ the _____ Manager/ Agent

.....bank. The charge created under the declaration is duly included in the record-of-rights on theday of 19

Tahsildar

Forwarded with compliments to the Sub-Registrar with a request to record the particulars of the chargecreated under the declaration in his office.

Manager/ Agent

.....

Place.....

R e t u r n e d with _____ compliments _____ to _____ the _____ Manager/ Agent.....

Bank. The charge created under the declaration is duly recorded.

Sub-Registrar.]

1. Added by Haryana Act 17 of 1978.