

TRIPURA



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Part -I – Orders & Notifications by the Government of Tripura,
the High Court, Government Treasury etc.

GOVERNMENT OF TRIPURA
FINANCE DEPARTMENT
(INSTITUTIONAL FINANCE)

No.F.12 (5)-DIF /C-I/Part -II/Shadow/

Dated, Agartala, the 3rd October, 2007.

NOTIFICATION

In exercise of the powers conferred by Sub-Section (I) of Section-16 of The Tripura Protection of Interests of Depositors (In Financial Establishments) Act., 2000, the Governor of Tripura hereby makes the following rules, namely:

Chapter-I

Preliminary

1. Short title and commencement:
 - (1) These Rules may be called the Tripura Protection of Interests of Depositors (In Financial Establishments) Rules, 2007
 - (2) They shall come into force on date of their publication in the Official Gazette.
 2. Definitions: In these rules, unless the context otherwise requires: -
 - (a) 'Act' means the Tripura Protection of Interests of Depositors (In Financial Establishments) Act., 2000 ;
 - (b) 'Competent Authority' shall have the same meaning assigned to it in the Act ;
 - (c) 'Designated Court' shall have the same meaning assigned to it in the Act. ;
 - (d)'Form' means a form set out in Schedule-I or a translation thereof in Bengali / Kok-Borok ;
 - (e)'Financial Establishments' shall have the same meaning assigned to it in the Act;
 - (f) 'Government' means Government of Tripura;
 - (g) 'Section' means a sections of the Act ;
 - (h) 'Schedule' means a Schedule appended to these rules;
 - (i) Words and expression used but not defined in the rules shall have the meanings respectively assigned to them in the act;
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CHAPTER-II
DEFAULT AND REMEDIES

3. Receipt of
complaint(s):-

- (1) The Collector of a District shall receive the complaint(s) from his District under Sub-Section (1) of Section-4 of the Act.
- (2) On receipt of complaint(s) the Collector shall issue notice in Form No.1 upon the Financial Establishment(s) or the persons against whom complaint is lodged. The notice in Form No.1 shall be issued in duplicate and served upon the party(s) and a copy shall be signed by the party(s) as a token of receipt and returned to the Collector.

The service of the notice shall be in the manner as in Schedule-II.

- (3) The Collector in whose office the complaint is lodged shall hear the case, take evidence if necessary. If the allegation(s) are prima facie established, the Collector shall forward the complaint with his report to the Government indicating the amount involved for recovery and shall send a copy of the complaint also to the Superintendent of Police of the concerned District for investigation and report to the Government at the earliest.

The Collector in his said report shall specifically mention about immovable property or other properties of Financial Establishment or person(s)

4. Attachment of
property on
default:-

- 1) On receipt of the report from the Collector if the Government is satisfied that the Financial Establishment(s) or person(s) against whom reported by Collector is / are not likely to return the deposits or make payment of interest or other benefits assured or to provide the services against which the deposit is received may, in order to protect the interest of the depositors of such Financial Establishment(s) after recording reasons in writing, issue an order by publishing it in the official gazette, attaching the money or other property as reported by the Collector.

While issuing the attachment order the Government will take into consideration the investigation report of the concerned Superintendent of Police.

- (2) In the attachment order detail particulars of property or properties should be indicated specifically. Immediate after the issuance of the said attachment order, the holder(s) shall be prohibited and restricted until further order of the designated court from transferring or charging the property as specified by sale, gift or otherwise and all persons be in like manner prohibited from receiving the same by purchase, gift or otherwise.

5. **Competent Authority:-** The Competent Authority on receipt of attachment order issued by the Government the same shall be affixed at a conspicuous part of the property and shall be proclaimed in the locality by beat of drum or otherwise. The Competent Authority may authorize any of his subordinates not below the rank of Revenue Inspector for execution of the attachment order.
6. **Sale of attached property:-** If the Designated Court pass order making the attachment absolute, and issue such direction as may be necessary for disposal of assets attached and for the equitable or otherwise distribution among the depositors of the money realized out of the property attached. The Competent Authority shall dispose the attached property by sale.
7. **Notice of sale:-** (1) Before effecting the sale of any movable property or land or other immovable property the Competent Authority shall issue proclamation in Form No.2 and in Form No.3 respectively in the manner as below:
(a) The Officer as authorized by the Competent Authority conducting the sale shall cause wide publicity of the proclamation of sale to be made and may, in addition to other processes provided for such publicity in Schedule-I
(b) The proclamation of the intended sale shall state the date, time and place of the sale and specify the following as clearly and accurately as possible-
(i) the property to be sold;
(ii) estimated value of the property;
(iii) the amount for the recovery of which the sale is ordered; and
(c) The place of sale to be specified under sub-rule 1 (b) shall be either the office of the Competent Authority or any place near the property to be sold.
8. **Sale by auction:-** All sales of property, movable or immovable shall be made by public auction, held in the manner as below:-
(1) Auction shall be held at the spot unless officer ordering the auction is of the opinion that the auction if held in any other place would bring a higher price in which case auction may be held at such other place.
(2) If the auction is not held at the spot due publicity thereof shall be proclaimed by beat of drum or otherwise.
9. **Distrain of Movable property other than the produce of land:-** (1) When the property to be distrained is movable property (other than the produce of the land) in the possession of the defaulters the distraint shall be effected by actual seizure and the distraining officer shall keep the property in his own custody or in the custody of any one of his subordinates who shall be responsible for the due custody thereof.
Provided that when the property so distrained be subject to speedy or natural decay, or if the expenses of keeping it in custody are likely to exceed its value, the distraining officer may if so authorized by the Competent Authority sell it at once and the amount shall be deposited

into Treasury as " Civil Deposit (Security)" till order passed by the Designated Court.

Provided further that if the property distrained consists of live-stock, agricultural implements or articles, which can not be conveniently removed, and the distraining officer does not act under first proviso he may;

- (i) Leave it in-charge of any person claiming to be interested in such property or any other person, who is willing to undertake to keep and be responsible for the custody of such property on his entering into a bond with one or more sureties for an amount not less than the value of the property that he will take proper care of the property and produce it when called for or,
- (ii) In the case of Livestock leave it in-charge of the pound keeper, if any.

(2) The distraining officer shall make a list of the property distrained and obtain thereon an acknowledgement from the person in whose custody the property is left, and if possible, also of the defaulter and atleast two other persons in attestation of the correctness of the list. If the property distrained includes both Live-Stock and other articles, separate list thereof shall be prepared and got attested

10. Dstraint of produce of land:-

(1) Where the property to be distrained is the produce of the land, the dstraint shall be made by affixing a copy of the order

- (i) Where such produce is growing, on the land on which the produce is growing, or
- (ii) Where such produce has been cut or gathered on the threshing floor or the place for treading out grains or the like in which it is deposited. This service will be in addition to normal process of service provided in Schedule-II.

(2) The distraining officer shall make such arrangement for the custody of produce of the land as he may consider sufficient and also to tend, cut, gather and store the produce and do any other act necessary for maturing or preserving it.

(i)The cost incurred under sub-rule (2) shall be payable by the defaulter if the attachment is made absolute by the designated court.

11. Custody of distrained property:-

(1) Where the distrained Live-Stock is not left in the charge of the defaulter the expenses of feeding it shall be charged at such reasonable rate as the Competent Authority, by general or special order fix.

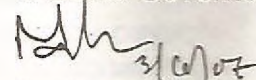
(2) Where the property distrained is movable property, other than produce of the land or Live-Stock, and has not been left in charge of the defaulter, the expenses for its safe custody shall be charged at such reasonable rate as the Competent Authority may, by general or special order fix.

(3) The cost incurred under Sub-rules (1) and (2) shall be a charge on the sale price of the property.

12. Leaving Live-Stock in charge of Pound-Keeper:-
Where the distrained Live-Stock is left in the charge of the Pound-Keeper, the provision provided in schedule II regarding Live-Stock attached in execution of decrees of attachment will be applicable.
13. Management of attached property:-
When the property attached consists of immovable property, the Competent Authority shall be entitled to manage the property so attached or entrust its management to such person or authority on such conditions as it deems fit and to receive all rents and profits accruing therefrom, to the exclusion of the defaulter. The collection charges in respect of the property so attached and managed shall after the cost of attachment and management have been deducted therefrom be applied to the payment of money for which the property was attached.
14. Prohibition to bid at auction:-
No officer having any duty to perform in connection with any such sale and no person employed by or sub-ordinate to such officer shall, either directly or indirectly bid for or acquire any such property.
15. Sale of perishable articles:-
Perishable articles shall be sold by auction with the least possible delay and such sale shall be finally concluded by the officer conducting the same
16. The sales to be proportionate to the amount:-
Every sale property, movable or immovable, shall, as far as may be practicable, be proportionate to the amount to be recovered together with the expenses of attachment and sale as directed by the Designated Court.
17. Deposit by purchaser of immovable property:-
In all cases of sale of immovable property, the party who is declared to be the purchaser shall be required to deposit immediately 25% of the amount of his bid, and the balance within 15 (fifteen) days of sale.
18. Failure to make deposit:-
1) In default of the payment of the deposit referred to in rule-17 the property shall be put up for re-sale and the expenses incurred in connection with first sale shall be borne by the defaulter bidder.
(2) In default of payment of the balance of the bid amount within the period prescribed in rule-17, the deposit after defraying therefrom the expenses of the sale shall be forfeited and the property shall be re-sold.
(3) When the proceed of the re-sale are less than the amount required to be realized the difference shall be bridged, as far as practicable, by the balance amount of the deposit forfeited under sub-rule (2). However, if there is no difference and the re-sold value is enough to meet amount or the difference is such it does not require entire forfeited amount then the forfeited deposit or part thereof as the case may be, shall vest with the State Government.

19. **Confirmation of purchase:-** When a sale held under this chapter is confirmed, the Competent Authority shall put the person declared to be the purchaser in possession of the property and shall grant a certificate in form No.4 to the effect that he has purchased the property specified therein and such certificate shall be deemed to be valid transfer of such property.
20. **Application of proceeds of sale:-** The proceeds of the sale of any such property shall be applied to defray the expenses of the sale which shall be determined in the manner as below and the balance shall be applied to the payment of depositors money as directed by the designated court on account of which the sale was held and the surplus, if any, shall be paid to the person whose property has been sold:
- (i) In calculating the cost of sale, the Designated Court shall take into account the cost of notice of demand, attachment of property and its maintenance and publication of the sale and any other cost incurred in conducting the same.
- (ii) If the proceeds of the sale fell short of such money for which it was held the balance remaining due from the defaulter may be recovered from him by further proceeding authorized by law.
21. **Liability certified purchase.** of The person who has purchased any such land to whom a certificate of purchase has been granted shall not be liable for the land revenue in respect of that land for any period prior to the date of sale.
22. **Removal of difficulties: -** of If any difficulty arises in giving effect to the provisions of these rules the matter may be referred to the State Government and in removing the difficulty corresponding provisions of the TLR & LR Act. may be referred to if necessary.

By order of the Governor,



(Pravin Srivastava)

Principal Secretary to the
Government of Tripura

Schedule - I

Form No.1

(See Rule-3(2))

Office of the Collector

_____ (Jurisdiction)

To

(Name and address of Financial Establishment or person(s) involved)

Whereas, it has been reported that You have defaulted in repayment of deposit on maturity along with any benefit in any form of interest, bonus etc. as promised / has reason to believe that you are acting in a manner detrimental to the interest of the depositors with an intimation to defraud them.

You are hereby asked to appear before the undersigned on _____ at _____ along with all supporting documents to defend.

Take notice that, in default of your appearance on the day before mentioned, the case will be reported to the Government of Tripura for taking action against you according to law: -

Dated _____ 200

Collector.

Form No.2

(See Rule-7(1))

Proclamation of sale of movable property

Whereas movable property specified below has been attached by Government of Tripura
and order passed by the
.....
(Name of Designated Court) in case No..... for recovery of
Rs,.....(Rupees.....) only on
account of default in repayment of maturity value or for otherwise defrauding the depositors by
.....(Name and address of
Financial Establishment or person(s) involved).

Proclamation is hereby made that unless the amount be paid by
.....(name of Financial Establishment or person
involved)..... before the day herein fixed for the sale, the said property shall
be sold by public auction aton theday of,200 at about
.....O'clock.

Sl No.	Description of movable property	Number of article(s)
1	2	3

Dated.....200

Competent Authority

Form No.3

(See Rule-7(1))

Proclamation of sale of immovable property

Whereas the immovable property described below have / has been attached by Government of Tripura and order passed by the..... (name of Designated Court).....in case No.....for recovery of Rs.....(Rupees-.....) only on account of default in repayment of maturity value or for otherwise defrauding the depositors by(Name of Financial Establishment or person(s) involved).

Proclamation is hereby made that, unless the amount be paid by(Name of Financial Establishment or person(s) involved) before the day herein fixed for the sale, the said property shall be sold by public auction at.....on theday of 200 at or aboutO'clock..

Description of immovable property with assessment if any, (in case of land, schedule to be indicated)

.....
.....

Dated,.....200

Competent Authority.

Form No.4

(See Rule-19)

Certificate of purchase

This is to certify that(Name and address of purchaser) has been declared the purchaser of the immovable property specified below at a sale by public auction held on theday of200 and the sale has been confirmed.

The sale transferred the right, title and interest of[Name and address of Financial Establishment or person(s) involved] to the purchaser.

Detail of property

Description / land schedule	Place location	of	Assessment if any	Name recorded owner/occupant	of	Amount for which purchased
1	2		3	4		5

Dated.....200

Competent Authority

SCHEDULE-II

1. Issue of Notice: - A person noticed shall be bound to appear at the time and place mentioned in the notice(s) in person or, if the notice(s) allows, by his recognized agent or a legal practitioner.
2. Persons summoned bound to appear and to take truth:- The person attending in obedience to the notices shall be bound to state the truth upon any matter respecting which is examined or makes statement and to produce such documents and other things relating to any such matter as the court may require.
3. Service of notice. (1) A notice shall, if practicable, be served (a) personally on the person to whom it is addressed or failing him (b) on his recognized agent or (c) on any adult male member of his family usually residing with him.
(2) If service can not be effected as above, or if acceptance of service so made is refused, the notice(s) may be served by pasting a copy thereof on the door of the usual or last known place of residence of the person to whom it is addressed or by publication in a newspaper.
- 4.. Acknowledgement when notice pasted at person's door:- When a notice be pasted on the door or a place of a residence and acknowledgement of its having been so pasted shall be taken from two respectable neighbours.
5. Substituted service:- A notice may be served by publication in a newspaper which is / are most likely to be brought to the notice of the person to be served. The name of the person addressed in the notice or summons shall be printed in bold letters at the top the particulars of the case being given thereafter.
6. Service when persons to be served are numerous:- If the notice / summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the court or other authority so directs, be served by delivery of a copy thereof to such of those persons as the court nominates in this behalf, and by proclamation of the contents thereof for the information of other persons.
7. Service by registered post:- A notice/summons may, if the court or other authority so directs, served on the person named therein, either in addition to, or in substitution for, any other mode of service by post in a letter addressed to the person and registered under part-III of India Post Office Act. 1866.

8. **Presumption of service by post:-** When a notice is so forwarded in a letter, and it is proved that the letter was properly addressed and duly posted and registered, the court or other authority may presume that the notice / summons was served at the time when the letter would have been delivered in the ordinary course of post.
9. **Service of summons/notice out of Union of India:-** The provisions of the Code of Civil Procedure, 1908 along with any rules or notification issued by State Government as amended from time to time, for service of notice / summons out of Union of India or service of summons received from other countries, shall apply in Tripura.
10. **Modes of serving notice:-** Every notice / summons under the act may be served either by tendering or delivering a copy thereof, or sending such copy by post to the person on whom it is to be served, or his authorized agent or, if service in the manner aforesaid can not be made by affixing a copy thereof at his last known place of residence or at some place of public resort in the village in which the property to which the notice relates is situated.
11. **Mode of issuing proclamation :-** Whenever a proclamation is issued copies thereof shall be pasted in some conspicuous place of the office of the officer issuing it in his jurisdiction within which the properties to which it refers is situated, and some place of public resort on or adjacent to the properties to which it refers, and, unless the officer issuing it otherwise directs, the proclamation shall be further published by beat of drum or otherwise in the village, in which the properties to which it refers is situated, or if such village is un-inhabited, in the village from which the properties maintained.
12. **Notice of proclamation not void for error.** No notice of proclamation shall be deemed void on account of any error in the name or designation or any person or in the description of any land referred to therein, unless such error has produced substantial injustice.
13. For every animal committed to the custody of the Pound-Keeper a charge shall be levied as rent for the use of the pound for each 15-days or part thereof during which such custody continues, according to the scale prescribed under section-12 of the cattle Trespass act of 1871. And the sums so levied shall be sent to the treasury for credit to the Municipal Council, Nagar Panchayet area or the State of Tripura as the case may be, under whose jurisdiction the pound is, or made over to the Pound-Keeper.
14. The Pound-Keeper shall take care of, feed and water, animals distrained and for committed as aforesaid until they are withdrawn from his custody as herein after provided and shall be entitled to be paid for their maintenance at such rates as may be, from time to time, prescribed under proper authority.

15. The charges for the maintenance of live-stock shall be paid, to the Pound-Keeper by the distraining Officer for the first 15 days at the time the animals are committed to his custody and thereafter for such further such period as the court may direct, at the commencement of such period, payment for such main amount so made in excess of the sums due for the number of days during which the animals may be in the custody of the Pound-Keeper shall be refunded by him to the distraining Officer.

16. Live-Stock distrained and committed as aforesaid shall not be released from custody of the Pound-Keeper except on the written order of the Court concerned or of the distraining Officer or of the Officer appointed to conduct the sale. The person receiving animals on their being so released shall sign a receipt for them in the register.