

# NOTICE

Debts Recovery Tribunal (Procedure) Rules, 1993 & Security Interest (Enforcement) Rules, 2002 have been amended vide GOI Notifications No. GSR 1047(E) dated 3.11.2016 and GSR 1046(E) dated 3.11.2016, respectively.

All are informed of above amendments in the DRT (Procedure) Rules, 1993 and Security Interest (Enforcement) Rules, 2002, for compliance.



By Order

(REGISTRAR)



11. इन नियमों के (नियम 13 के अनुसार) आवेदन शुल्क से संबंधित बैंक ड्राफ्ट या पोस्टल ऑर्डर का ब्यौरा:

(i) बैंक का नाम जिसमें आहरित:

(ii) डिमांड ड्राफ्ट की संख्या:

या

(i) भारतीय पोस्टल ऑर्डर(ऑर्डरों) की संख्या:

(ii) जारी कर्ता डाकघर का नाम:

(iii) पोस्टल ऑर्डर(ऑर्डरों) को जारी किए जाने की तारीख:

(iv) देय डाकघर:

12. विषय सूची का विवरण:

विश्वस्त कागजातों के विवरण वाली विषय सूची 2 प्रतियों में संलग्न है।

13. संलग्नकों की सूची:

सत्यापन

मैं.....श्री .....  
का/की पुत्र/पुत्री/पत्नी, आवेदक के लिए या आवेदक की ओर से आवेदनकर्ता एतद द्वारा पूर्ण रूप से यह सत्यापित करता/करती हूँ कि 1 से 11 पैरा के सभी तथ्य मेरी व्यक्तिगत जानकारी और विश्वास से सही हैं और यह कि मैंने किसी भी वास्तविक तथ्य को छिपाया नहीं है।

आवेदक के हस्ताक्षर

स्थान:

तारीख:

सेवा में,

रजिस्ट्रार

.....  
.....

[फा. सं. 3/10/2016-डीआरटी]

आनंदराव वि. पाटील, संयुक्त सचिव

टिप्पण : मूल नियम 20 सितम्बर, 2002 के का.आ. संख्या 1020(अ.) के तहत भारत के राजपत्र के भाग-II खंड 3, उप खंड (i) में प्रकाशित किये गये थे और 26 अक्टूबर, 2007 की अधिसूचना संख्या का.आ. 1837(अ) के तहत अंतिम बार संशोधित किये गये थे।

#### NOTIFICATION

New Delhi, the 3rd November, 2016

**G.S.R. 1046(E).**—In exercise of powers conferred by sub-section (1) and clause (b) of sub-section (2) of section 38, read with sub-section (4), sub-section (10) and sub-section (12) of section 13 of the Securitisation and Asset Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002), the Central Government hereby makes following rules further to amend the Security Interest (Enforcement) Rules, 2002, namely:-

1. **Short title and commencement.**—(1) These rules may be called the Security Interest (Enforcement) (Amendment) Rules, 2002.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Security Interest (Enforcement) Rules, 2002, (hereinafter referred to as the principal rules), in rule 3, -

(i) in sub-rule (1), after the word “delivering”, the words, “including hand delivery,” shall be inserted;

(ii) after sub-rule (4), the following sub-rule shall be inserted, namely:-



“(5) The demand notice may invite attention of the borrower to provisions of sub-section (8) of section 13 of the Act, in respect of time available to the borrower, to redeem the secured assets.”.

3. In the principal rules, in rule 3A,—

(i) in clause (b), for the words “seven days”, the words “fifteen days”, shall be substituted;

(ii) in clause (c), for the words “one week”, the words “fifteen days”, shall be substituted.

4. In the principal rules, in rule 4, after sub-rule (2), the following sub-rules shall be inserted, namely:—

“(2A) The borrower shall be intimated by a notice, enclosing the panchnama drawn in Appendix I and the inventory made in Appendix II.

(2B) All notices under these rules may also be served upon the borrower through electronic mode of service, in addition to the modes specified under rule 3.”.

5. In the principal rules, in rule 6,—

(i) in sub-rule (1), for clause (c), the following clause shall be substituted, namely:—

“(c) holding public auction including through e-auction mode; or”;

(ii) in sub-rule (2), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that if sale of movable property by any one of the methods specified under sub-rule (1) fails and the sale is required to be conducted again, the authorised officer shall serve, affix and publish notice of sale of not less than fifteen days to the borrower for any subsequent sale.”;

(iii) in sub-rule (3), for the words “between the parties in writing”, the words “between the secured creditors and the proposed purchaser”, shall be substituted.

6. In the principal rules, in rule 8,—

(i) after sub rule (2), the following sub-rule shall be inserted, namely:—

“(2A) All notices under these rules may also be served upon the borrower through electronic mode of service, in addition to the modes prescribed under sub-rule (1) and sub-rule (2) of rule 8.”.

(ii) in sub-rule (5), for clause (c), the following clause shall be substituted, namely:—

“(c) by holding public auction including through e-auction mode; or”;

(iii) in sub-rule (8), for the words “between the parties in writing”, the words “between the secured creditor and the proposed purchaser in writing”, shall be substituted.

7. In the principal rules, in rule 9,—

(i) for sub-rule (1), the following sub-rule shall be substituted, namely:—

“(1) No sale of immovable property under these rules, in first instance shall take place before the expiry of thirty days from the date on which the public notice of sale is published in newspapers as referred to in the proviso to sub-rule (6) of rule 8 or notice of sale has been served to the borrower:

Provided further that if sale of immovable property by any one of the methods specified by sub rule (5) of rule 8 fails and sale is required to be conducted again, the authorised officer shall serve, affix and publish notice of sale of not less than fifteen days to the borrower, for any subsequent sale.”;

(ii) in sub-rule (2), in the proviso, for the word and figure “rule 9”, the word and figure “rule 8”, shall be substituted;

(iii) for sub-rule (3), the following sub-rule shall be substituted, namely:—

“(3) On every sale of immovable property, the purchaser shall immediately, i.e. on the same day or not later than next working day, as the case may be, pay a deposit of twenty five per cent. of the amount of the sale price, which is inclusive of earnest money deposited, if any, to the authorised officer conducting the sale and in default of such deposit, the property shall be sold again”;

(iv) in sub-rule (4), for the words “as may be agreed upon in writing between the parties”, the words, “as may be agreed upon in writing between the purchaser and the secured creditor, in any case not exceeding three months” shall be substituted;

(v) in sub-rule (5), after the words, “the deposit shall be forfeited”, the words “to the secured creditor” shall be inserted.

8. In the principal rules, after rule 13, the following rule shall be inserted, namely:—



"13A. Application by lessee or tenant.— (1) Every application under sub-section (1) of section 17 filed by lessee or tenant of the secured assets shall be accompanied by a fee specified in sub-clause (c) and sub-clause (d) of sub-rule (2) of rule 13, as the case may be.

(2) The application to be made by the lessee or the tenant under sub-section (1) of section 17, shall be in the form specified in Appendix X annexed to these rules".

9. In the principal rules, in Appendix I, after the first paragraph, the following paragraph shall be inserted, namely:—

"The borrower's attention is invited to provisions of sub-section (8) of section 13 of the Act, in respect of time available, to redeem the secured assets."

10. In the principal rules, in Appendix III, for the word and figure "rule 8", the words and figures "rule 6 and 7", shall be substituted.

11. In the principal rules, in Appendix IV,—

(i) in the opening paragraph, for the word and figure "rule 9", the word and figure "rule 3" shall be substituted;

(ii) for the first paragraph, the following paragraph shall be substituted, namely:—

"The borrower having failed to repay the amount, notice is hereby given to the borrower and the public in general that the undersigned has taken possession of the property described herein below in exercise of powers conferred on him under sub-section (4) of section 13 of Act read with rule 8 of the Security Interest Enforcement) Rules, 2002 on this the .....day of ..... of the year.....";

(iii) after the second paragraph, the following paragraph shall be inserted, namely:—

"The borrower's attention is invited to provisions of sub-section (8) of section 13 of the Act, in respect of time available, to redeem the secured assets."

12. In the principal rules, in Appendix V, for the word and figure "rule 12" the words and figures "rules 8 and 9", shall be substituted.

13. In the principal rules, after Appendix IX, the following Appendix shall be inserted, namely:—

#### "APPENDIX- X

[See rule 14]

(for lessee/tenants)

(Application under sub-section (1) of section 17 read with sub-section (4) of section 17 of the Act)

For use in Tribunal's Office:

Date of filing .....

Date of receipt by post .....

or

Registration number .....

Signature .....

Registrar

In the Debts Recovery Tribunal

(Name of the place)

Between:

A B.....

Applicant(s)

And

C D .....

Defendant(s)

'Delete whichever is not applicable.

Details of application:

1. Particulars of applicant:—

(i) Name of applicant:

(ii) Locus of applicant – lessee/ tenant:

(iii) Address of applicant/lessee:



(iv) Address for service of all notices:

2. Particulars of the defendant/bank:-

- (i) Name of the defendant/ bank:
- (ii) Office address of the defendant/bank:
- (iii) Address for service of all notices:

3. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of this application falls within the jurisdiction of the Tribunal.

4. Limitation:

The applicant further declares that this application is filed within the limitation prescribed in sub-section (1) of section 17 of the Act.

5. Locus of applicant:

Enumerate herein-nature of locus of applicant under sub-section (1) of section 17 read with section sub-section (4) of section 17.

- (i) Whether the applicant is a lessee or tenant:
- (ii) If applicant is a lessee or tenant, furnish the following details:

Date of lease deed/agreement of tenancy if any	
Whether the lease deed/ agreement of tenancy is registered	
Details of registration – name of the SRO, document number to be furnished	
Amount of rent under the lease deed / agreement of tenancy	
Period of lease / tenancy	
Whether permission of secured creditor taken	
Date of expiry of lease/agreement of rent	
Whether lease/tenancy renewed	
Copy of lease deed / agreement of tenancy	

6. Facts of the case :

The facts of the case are given below:-

(Give here a concise statement of facts in a chronological order, each paragraph containing as nearly as possible a separate issue, fact or otherwise as to how the applicant is aggrieved).

7. Cause of action:

8. Relief(s) sought:

In view of the facts mentioned in paragraph 5 above, the applicant prays for the following relief(s):-

[Specify below the relief(s) sought explaining the ground for relief(s) and the legal provisions (if any) relied upon as laid down under sub-section (3) of section 17]

9. Interim order, if prayed for:

Pending final decision on the application, the applicant seeks issue of the following Interim Order:-

(Give here the nature of the interim order prayed for with reasons).

10. Matter not pending with any other court, etc.:

The applicant further declares that the matter regarding which this application has been made is not pending before any court of law or any other authority or any other bench of the Tribunal.

11. Particulars of bank draft or postal order in respect of the application fee in terms of [rule 13] of these rules:

- (i) Name of the bank on which drawn:
- (ii) Demand draft No.:

or

- (i) Number of Indian Postal Order(s):
- (ii) Name of the issuing post office:
- (iii) Date of issue of postal order(s):



(iv) Post office at which payable:

12. Details of index:

An index in duplicate containing the details of the documents to be relied upon is enclosed.

13. List of enclosures:-

#### Verification

I.....son/daughter/wife of

(Name in full and block letters)

Shri....., the applicant /for and on behalf of the applicant hereby solemnly verify that the contents of paragraphs 1 to 11 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Signature of the applicant

Place:

Date:

To

The Registrar,

.....  
.....”

[F. No. 3/10/2016 - DRT]

ANANDRAO V. PATIL, Jt. Secy.

**Note :** The principal rules were published in the Gazette of India, Part II, Section 3, Sub-section (i) *vide* number S.O. 1020 (E), dated the 20<sup>th</sup> September 2002 and last amended *vide* notification number S.O. 1837 (E), dated the 26<sup>th</sup> October 2007.

#### अधिसूचना

नई दिल्ली, 3 नवम्बर, 2016

सा.का.नि. 1047(अ).—केंद्रीय सरकार बैंकों और वित्तीय संस्थाओं को शोध्य ऋण वसूली अधिनियम, 1993 (1993 का 51) की धारा 36 की उप-धारा (1) और (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, ऋण वसूली अधिकरण (प्रक्रिया) नियम, 1993 में संशोधन के लिए निम्नलिखित और नियम बनाती है, अर्थातः—

1. संक्षिप्त नाम और प्रारंभ.—(1) इन नियमों का संक्षिप्त नाम ऋण वसूली अधिकरण (प्रक्रिया) (संशोधन) नियम, 2016 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. ऋण वसूली अधिकरण (प्रक्रिया) नियम, 1993 (जिसे इसके पश्चात् मूल नियम कहा गया है), में नियम 2 में,—

(i) खंड (क) के स्थान पर निम्नलिखित रखा जाएगा, अर्थातः—

अ. ‘(क) “अधिनियम” से बैंकों और वित्तीय संस्थाओं को शोध्य ऋण वसूली अधिनियम, 1993 (1993 का 51) अभिप्रेत है;’;

आ. ‘(कक) “अभिकर्ता से किसी पार्टी द्वारा विधिवत रूप से प्राधिकृत व्यक्ति अभिप्रेत है जो अधिकरण के समक्ष आवेदन प्रस्तुत करता है या उसकी ओर से उत्तर देता है”’;

(ii) खंड (च) के लिए निम्नलिखित खंड को प्रतिस्थापित किया जाता है, नामतः—

‘(च) “पीठासीन अधिकारी” से अधिकरण का पीठासीन अधिकारी अभिप्रेत है और इसमें केन्द्रीय सरकार द्वारा कार्य के निर्वहन के लिए प्राधिकृत किसी अन्य अधिकरण का पीठासीन अधिकारी शामिल है;’

3. मूल नियमों में नियम 5 के उप-नियम (2) के पश्चात् निम्नलिखित उप-नियम अंतःस्थापित किए जाएंगे, अर्थातः—

“(2क) उप-नियम (2) के अंतर्गत आवेदन के रजिस्ट्रीकरण के पश्चात् अधिकरण प्रारूप IV में प्रतिवादियों को समन जारी किए जाएंगे”।



## NOTIFICATION

New Delhi, the 3rd November, 2016

**G.S.R. 1047(E).**— In exercise of powers conferred by sub-sections (1) and (2) of section 36 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993), the Central Government hereby makes following rules further to amend the Debts Recovery Tribunal (Procedure) Rules, 1993, namely:—

1. Short title and commencement.—(1) These rules may be called the Debts Recovery Tribunal (Procedure) (Amendment) Rules, 2016.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Debts Recovery Tribunal (Procedure) Rules, 1993, (hereinafter referred to as the principal rules), in rule 2,—
  - (i) for clause (a), the following shall be substituted, namely:—
    - A. ‘(a) “Act” means the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993);’;
    - B. ‘(aa) “agent means a person duly authorised by a party to present application or to give reply on its behalf before the Tribunal;”;
  - (ii) for clause (f), the following clause shall be substituted, namely:—
 

‘(f) “Presiding Officer” means the Presiding Officer of the Tribunal and includes the Presiding Officer of any other Tribunal, authorised by the Central Government to discharge the function;’;
3. In the principal rules, in rule 5, after sub-rule (2), the following sub-rule shall be inserted, namely:—
 

“(2A) After registration of the application under sub-rule (2), the Tribunal shall issue summons to the defendants in Form IV.”
4. In the principal rules, in rule 5A, in sub-rule (2) for the words “sixty days”, the words “thirty days” shall be substituted.
5. In the principal rules, in rule 6, for clause (a), the following shall be substituted, namely:—
 

“(a) the branch or any other office of the applicant is functioning as a bank or financial institution and maintaining an account in which debt claimed is outstanding for the time being:

Provided that a Debenture Trustee having a claim against any company for redemption of secured debt securities, shall file an application at the place within whose jurisdiction the Debenture Trustee has its principal place of business or at the place where secured asset is located.”
6. In the principal rules, for rule 12, the following rule shall be substituted, namely:—
 

“12. Filing of written statement and other documents by the defendant and by the applicant as a reply to the written statement.— (1) The defendant may, within a period of thirty days from the date of service of summons, file two complete sets of written statement including claim for set-off or counter claim, if any, along with documents in a paper book form.

(2) A copy of the written statement filed under sub-rule (1) shall be served to the applicant.

(3) If the defendant fails to file the written statement of his defence, including claim for set off or counter claim under sub-rule (1), if any, within the period of thirty days, the Presiding Officer may in exceptional cases and special circumstances to be recorded in writing, extend the period, by such further period not exceeding fifteen days.

(4) If the defendant have filed their claim for set off or counter claim, the applicant shall file reply statement in answer to the claim for set off or counter claim within a period of thirty days of filing of such claims.

(5) If the applicant fails to file his reply within the period of thirty days, the Presiding Officer may, in exceptional cases and special circumstances, to be recorded in writing, extend the period, by such further period not exceeding fifteen days.

(6) The written statement of the defendant including claim for set off or counter claim or any other pleading whatsoever by the defendant or the applicant, as the case may be, shall be supported by an affidavit sworn in by the defendant or the applicant or the witnesses, verifying all the facts and pleadings and other documents annexed and the affidavits of witnesses, to be led by defendant or the applicant shall be filed simultaneously with the written statement of the defendant or the reply of the applicant.

(7) If the defendant or the applicant as the case may be, fails to file the reply as specified above, the Tribunal may proceed forthwith to pass an order on the application as it thinks fit.

(8) Where a defendant makes an admission of the full or part of the amount of debt due to a bank or financial institution, the Tribunal shall order such defendant, to pay such amount, to the extent of the admission, by the



applicant within a period of thirty days from the date of such order, failing which the Tribunal may issue a certificate in accordance with section 19 of the Act, to the extent of amount of debt due admitted by the defendant.

(9) The Tribunal may at any time for sufficient reason order that any particular fact or facts shall be proved by affidavit, or that the affidavit of any witness shall be read at the hearing, on such conditions as the Tribunal thinks reasonable:

Provided that after filing of the affidavits by the respective parties where it appears to the Tribunal that either the applicant or the defendant desires the production of a witness for cross examination and that such witness can be produced and it is necessary to do so, the Tribunal shall for sufficient reasons to be recorded, order the witness to be present for cross examination, and in the event of the witness not appearing for cross examination, then, the affidavit shall not be taken into evidence and further that no oral evidence other than that given in this proviso will be permitted.

(10) If the defendant denies his liability to pay the claim made by the applicant, the Tribunal may act upon the affidavit of the applicant who is acquainted with the facts of the case or who has on verification of the record sworn the affidavit in respect of the contents of application and the documents as evidence.

(11) The provisions contained in section 4 of the Banker's Books Evidence Act, 1891 (18 of 1891) shall apply to a certified copy of an entry in a banker's book furnished along with the application filed under sub-section (1) of section 19 by the applicant."

7. In the principal rules, for rule 16, the following rule shall be substituted, namely:-

"16. Communication of final orders to parties.- Every final order passed and recovery certificate issued shall be communicated to the applicant and to the defendant either in person or by registered post free of cost and may also be uploaded in the website of the Tribunal:

Provided that the applicant and defendant may obtain copy of any other order passed by the Tribunal during the hearing from the Registrar on payment of fees of rupees five per page, subject to a minimum of rupees one hundred, for every order and the same may also be uploaded in the website of the Tribunal."

8. In the principal rules, in FORM I,-

(a) under the heading 'DETAILS OF APPLICATION', after serial number 3 and entries relating thereto, the following serial number and entries shall be inserted, namely:-

"3A. Details of debt and assets:

(i) Total amount of debt claimed as on the date to be specified.	amount of debt, in rupees		
(ii) Amount of debt, as on specified date, secured by security interest over properties or assets of the defendant with particulars of secured properties and assets.	amount of secured debt, in rupees	description of property or asset with its location securing the debt.	
(iii) Estimated value of properties or assets over which security interest is created.	description of property or asset with its location securing the debt.	value, in rupees	
(iv) If estimated value is not adequate to cover the total debt claimed with future interest particulars of any other properties or assets known to the applicant with estimated value of such other properties or assets.	description of property or asset with its location.	estimated value, in rupees	
(v) Amount of unsecured debt or portion of debt not covered by estimated value of secured properties and other properties.	amount of unsecured debt, in rupees	portion of debt not covered by securities, in rupees. ";	

(b) for serial number 7 and entries relating thereto, the following serial number and entries shall be substituted, namely:-

"7. Interim order, if prayed for:-

(i) pending final decisions on the application, the applicant seeks issue of the following interim order:-

(Give here the nature of the interim order prayed for with reasons)



(ii) whether the applicant is seeking an order directing the defendant to disclose to the Tribunal particulars of other properties or assets owned by the defendant and if so, grounds justifying such order.

(iii) if the applicant proposes to rely on evidence of any witness in support of his claim, he shall annex affidavits of the witnesses, to the application.”;

(c) for serial number 10 and entries relating thereto, the following serial number and entries shall be substituted, namely:—

“10. Details of documents:—

True copies of all documents and evidence of witnesses along with an index of such documents in duplicate, relied upon in support of the claim.”

9. In the principal rules, after FORM III, the following FORM shall be inserted, namely:—

**“FORM IV**

(See sub-rule (2A) of rule 5)

Summons under sub-section (4) of section 19 of the Act, read with sub-rule (2A) of rule 5 of the Debt Recovery Tribunal (Procedure) Rules, 1993.

Before Debts Recovery Tribunal \_\_\_\_\_

address \_\_\_\_\_

OA No. \_\_\_\_\_

Date \_\_\_\_\_

Applicant  
Defendant(s)

Whereas, OA No. \_\_\_\_\_ was listed before Hon'ble Presiding Officer on .....

Whereas, this Hon'ble Tribunal is pleased to issue summons/ notice on the said Application under section 19(4) of the Act, (OA) filed against you for recovery of debts of \_\_\_\_\_/- (application along with copies of documents etc. annexed).

In accordance with sub-section (4) of section 19 of the Act, you, the defendants are directed as under:—

- (i) to show cause within thirty days of the service of summons as to why relief prayed for should not be granted;
- (ii) to disclose particulars of properties or assets other than properties and assets specified by the applicant under serial number 3A of the original application;
- (iii) you are restrained from dealing with or disposing of secured assets or such other assets and properties disclosed under serial number 3A of the original application, pending hearing and disposal of the application for attachment of properties;
- (iv) you shall not transfer by way of sale, lease or otherwise, except in the ordinary course of his business any of the assets over which security interest is created and/ or other assets and properties specified or disclosed under serial number 3A of the original application without the prior approval of the Tribunal;
- (v) you shall be liable to account for the sale proceeds realised by sale of secured assets or other assets and properties in the ordinary course of business and deposit such sale proceeds in the account maintained with the bank or financial institutions holding security interest over such assets.

You are also directed to file the written statement with a copy thereof furnished to the applicant and to appear before \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_ A.M. failing which the application shall be heard and decided in your absence.

Given under my hand and seal of the Tribunal on this the .....day of.....20.....

By Order of the Tribunal

Registrar

Debts Recovery Tribunal, .....



To

Defendants

- 1.
- 2.
- 3.

[F. No. 3/10/2016 – DRT]

Anandrao V. Patil, Jt. Secy.

**Note :** The principal rules were published in the Gazette of India, Part II, Section 3, Sub-section (i) *vide* number G.S.R 564(E), dated the 5<sup>th</sup> August, 1993 and lastly amended *vide* notification number G.S.R 407(E), dated the 6<sup>th</sup> April, 2016.