

## ORISSA REGULATION 2 OF 1976

**THE ORISSA (SCHEDULED AREAS) MONEY-LENDERS'  
(AMENDMENT) REGULATION, 1976**

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## A

## REGULATION

TO AMEND THE ORISSA (SCHEDULED AREAS) MONEY-LENDERS'  
REGULATION, 1967

**W**HEREAS it is expedient to amend the Orissa (Scheduled Areas) Money-lenders' Regulation, 1967 in order to give greater relief to the debtors;

**NOW, THEREFORE**, in exercise of the powers conferred by sub-paragraph (2) of paragraph 5 of the Fifth Schedule to the Constitution of India, the Governor of Orissa is pleased to promulgate the following Regulation made by him in the Twenty-seventh Year of the Republic of India :—

Short title  
and  
commence-  
ment.

1. (1) This Regulation may be called the Orissa (Scheduled Areas) Money-lenders' (Amendment) Regulation, 1976.

(2) It shall come into force at once.

Amendment  
of section 7.

2. In section 7 of the Orissa (Scheduled Areas) Money-lenders' Regulation, 1967 (hereinafter referred to as the principal Regulation), after sub-section (1), the following proviso shall be inserted, namely :—

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lation 2 of  
1968.

“Provided that no money-lender shall recover towards interest in respect of any loan advanced by him, an amount in excess of the amount of the principal.”

Insertion of  
new sections  
10-A,  
10-B and  
10-C.

3. After section 10 of the principal Regulation, the following new sections shall be inserted, namely :—

Discharge of  
loan on  
payment of  
double the  
amount of  
the principal.

“10-A. Any loan in respect of which the money-lender has realised from the debtor an amount equal to twice the amount of the principal or more, shall stand discharged and the amount, if any, so realised in excess of twice the amount of the loan shall be refunded by the money-lender to the debtor.

Discharge of  
possessory  
mortgage.

10-B. (1) Notwithstanding anything to the contrary contained in any law or anything having the force of law or in any contract, any possessory mortgage executed by the debtor in favour of the money-lender either before or after the commencement of the Orissa (Scheduled Areas) Money-lenders, (Amendment) Regulation, 1976, shall, unless discharged previously, stand discharged after the expiration of a period of seven years from the date of the mortgage.

(2) On the discharge of the mortgage as aforesaid, the mortgagee shall deliver to the mortgagor all documents in his possession or

power relating to the mortgaged property and shall retransfer the property to the mortgagor and put him in possession thereof at his cost free from the mortgage and from all encumbrances created by him and those claiming under him within three months from the date of expiry of the aforesaid period of seven years:

Provided that in cases where the said period of seven years has expired prior to the date of commencement of the Orissa (Scheduled Areas) Money-lenders' (Amendment) Regulation, 1976, the delivery of documents and the delivery of possession of the property as aforesaid shall be effected within three months from the aforesaid date.

(3) In case of the death of the mortgagor before the delivery of possession, the mortgagee shall deliver possession of the said documents and the mortgaged property to the successor-in-interest of the mortgagor.

(4) Where the mortgagee is unable to ascertain or is in doubt as to who is the successor-in-interest, he shall make an application within the period allowed for delivery of possession, to the Court which is competent to entertain a suit in respect of the mortgaged property, for taking over possession and management of the property and custody of the documents whereupon the Court shall appoint a receiver and thereupon, the provisions contained in Order XL of the Code of the Civil Procedure, 1908 shall, so far as may be, apply.

5 of 1908

(5) Any person claiming to be the successor-in-interest of the mortgagor may apply to the Court within twelve years from the date of appointment of the receiver for possession of the property whereupon the Court shall determine if the applicant or any other person is the successor-in-interest and for the said purpose the Court shall, as far as may be, follow the procedure provided in part X of the Indian Succession Act, 1925.

39 of 1925

(6) After such determination, the Court shall deliver possession of the property along with the documents and the amount, if any, which has accrued from the income of the property, to the person who is found by the Court to be the successor-in-interest.

(7) If no application is made under sub-section (5) within the period specified therein, or if on such an application being made no person is found to be the successor-in-interest and the said period has already elapsed, the property along with the amount, if any, which has accrued from its income, shall lapse to the Government.

*Explanation*—For the purposes of this section any mortgage in pursuance of which the mortgagee is in possession and enjoyment of the mortgage security in satisfaction of the mortgage debt, either in whole or in part, shall be deemed to be a "possessory mortgage".

10-C. (1) When a debtor tenders to a money-lender or to the debt collector authorised by him, any amount on account of a loan and the money-lender or his debt collector refuses to receive the amount tendered or refuses to grant a receipt for the same as required under sub-section (3) of section 8, the debtor may deposit the amount so tendered in any Court in which the money-lender might have instituted a suit for the recovery of such amount.

(2) The Court shall thereupon forthwith grant a receipt for the deposit under the seal of the Court and cause a written notice of the deposit to be served upon the money-lender.

(3) The money-lender may, at any time within three years after the date of the service upon him of the notice mentioned in sub-section (2), make an application to the Court praying for the amount deposited as aforesaid to be paid to him.

(4) If no application is made within the period mentioned in sub-section (3) for payment of any sum deposited in Court by a debtor under sub-section (1), the amount deposited shall, unless sooner paid to the person entitled to it, be kept in deposit for a period of three years from the date mentioned in sub-section (3); and if at the end of the said period of three years, the sum is still unpaid, it shall, by an order of the Court, lapse to Government.

(5) Upon receipt of an application under sub-section (3), the Court may order such amount to be paid to the applicant upon such terms and subject to such conditions as may be specified in the order.

(6) A receipt given by the Court under sub-section (2) shall operate as an acquittance for the amount deposited as aforesaid in the same manner and to the same extent as if that amount had been received by the money lender to whose credit the deposit was made, on the date of such deposit."

Amendment  
of section 11.

4. In section 11 of the principal Regulation, for clause (b) the following clause shall be substituted, namely :—

"(b) if the Court finds that the aforesaid provisions have not been complied with by the money-lender, it shall disallow the whole of the claim."

Amendment  
of section 13.

5. In section 13 of the principal Regulation, for the words "a sum greater", the words "for a sum greater" shall be substituted.

Insertion of  
new section  
13-A.

6. After section 13 of the principal Regulation, the following new section shall be inserted, namely :—

Appropriation of excess interest towards loan.

"13-A. Where in any suit brought in respect of a loan the Court finds that the amount already realised as interest, through Court or otherwise, is greater than the amount of loan originally advanced, it shall pass a decree for appropriation of so much of the said amount of interest as is in excess of the loan towards satisfaction of the loan."

Amendment  
of section  
15.

7. In section 15 of the principal Regulation,—

(a) in sub-section (4), for the words "A Magistrate of the First Class", the words "A Subdivisional Magistrate or any Tahasildar who is appointed under section 20 of the Code of Criminal Procedure, 1973 to be an Executive Magistrate," shall be substituted ;

(b) after sub-section (9), the following new sub-section shall be inserted, namely:—

"(10) An Inspector shall have authority to inspect the records relating to any money-lender and his business

maintained at the office of the licensing, registering and other public authorities or to call for records and information from such authorities who shall afford opportunity to the Inspector for inspection of the records and furnish the records and information as and when required by him."

8. After section 15 of the principal Regulation, the following new section shall be inserted, namely :—

"15-A. (1) The State Government may, from time to time, by notification, require the money-lender or money-lenders belonging to any class or carrying on business in any local area, to produce before such authority and by such date as may be specified in the said notification, all records relating to their business including documents evidencing advance of loans.

(2) The authority specified in the notification referred to in sub-section (1) shall scrutinise the documents with a view to determining if the transactions entered into during a particular year exceed the amount for which the money-lender has obtained the licence in respect of that year and shall, after giving the money-lender a reasonable opportunity of being heard, pass an order declaring the particulars of transactions that are within the amount specified in the said licence.

(3) The order referred to in sub-section (2) shall be published and affixture in the notice board of the office of the authority passing the order and copies thereof shall also be sent to the Block Development Officer and the Tahasildar within whose local limits of jurisdiction the money-lender's principal place of business is situate, for publication by affixture in the notice boards of their offices.

(4) If the authority referred to in sub-section (2) is satisfied that a money-lender has transacted business in excess of the amount specified in his licence, he may issue an order cancelling the said licence and may also disqualify him from being licensed as a money-lender for such period not exceeding three years, as may be specified in the order.

(5) An order passed under sub-section (2) or sub-section (4) shall forthwith be communicated to the concerned money-lender and the authority who has passed the order.

(6) Any person aggrieved by an order passed under sub-section (2) or sub-section (4) may, within one month from the date of communication of the said order, prefer an appeal before the authority as may be specified in the notification referred to in sub-section (1).

(7) An order passed under sub-section (2) or sub-section (4) shall, subject to the order passed in an appeal, if any, be final and shall not be called in question in any Court.

(8) No Court shall entertain any claim in respect of any loan advanced prior to the date of the order referred to in sub-section (2) unless the particulars thereof are contained in the said order and its effect in respect of such claims shall stand abated.

(9) An order passed under sub-section (4) shall, if it is not set aside in appeal, if any, be communicated by the authority passing the order to the concerned licensing authority who shall thereupon make any necessary corrections in the register of money-lenders maintained by

(10) Subject to the provisions of sub-section (7), the cancellation of the licence of a money-lender shall not affect his right to realise the loans advanced by him in accordance with the provisions of the Regulation prior to such cancellation, but he shall not be entitled to the refund of any fee paid in respect of such licence."

Amendment of section 20.

9. In section 20 of the principal Regulation, sub-section (2) shall be deleted.

Insertion of a new section 20-A.

10. After section 20 of the principal Regulation, the following new section shall be inserted, namely:—

Penalty for taking Premium, etc.

"20-A. If any money-lender or his agent takes from a debtor at the time of advancing a loan or deducts out of the principal of such loan any premium or other exactions of a similar nature by whatever name called or known, such money-lender or his agent, in the case may be, shall be punishable with fine not exceeding twice the amount of such premium or exaction."

Amendment of section 23.

11. Section 23 of the principal Regulation shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered the following new sub-section shall be inserted, namely:—

"(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences punishable under this Regulation excepting those punishable under section 20-A, shall be cognizable and bailable."

Substitution of section 24.

12. For section 24 of the principal Regulation, the following section shall be substituted, namely:—

Delivery of seized article to its owner.

"24. The Court while convicting a money-lender for an offence punishable under this Regulation shall, if it is satisfied that any article seized from the money-lender was pledged with him unlawfully, pass an order for the delivery of such article to the person to whom it belongs."

Moratorium on execution of decree against indigent debtors.

13. All proceedings in the execution of a decree obtained by a money-lender in respect of a loan advanced by him to an indigent debtor pending in a Court of Law on the date of coming into force of this Regulation, shall remain in abeyance for a period of two years from the said date and all applications for execution of any such decree filed after the said date but before the expiration of the said period of two years shall remain in abeyance for the remainder of that period.

*Explanation*—For the purposes of this section—

(a) "money-lender" shall mean a money-lender as defined in the principal Regulation; and

(b) "indigent debtor" shall mean a debtor who—

(i) owns land not exceeding two and a half acres whose principal source of income is agriculture or allied occupations, or

(ii) is an agricultural labourer owning no land or less than the extent referred to in sub-clause (i).