

(MEGHALAYA ACT 10 OF 1976)

THE MEGHALAYA CREDIT OPERATION AND MISCELLANEOUS PROVISIONS ACT, 1976

*Arrangement of Sections**Sections:-*

1. Short title, extent and commencement.
2. Definitions.
3. Removal of restrictions on alienation.
4. Charge on crops and other movable property created in favour of a bank.
5. Creation of charges on land in favour of a bank by declaration.
6. Priority of mortgages and charges.
7. Registration of charge and mortgage in favour of banks.
8. Noting of charge or mortgage created in favour of a bank in the Record of Rights.
9. Restrictions on creation tenancy by an agriculturist borrower.
10. Recovery of dues of a bank through a prescribed Authority.
11. Rights of a bank to acquire and dispose of immovable property.
12. Exemption to banks from restrictions on acquisition of land in excess of ceiling.
13. Bank eligible to become member of a Co-operative Society.
14. Power of Co-operative Societies to borrow from banks.
15. Inspection of books of a Co-operative Society by a Bank.
16. Disputes between a bank and a Co-operative Society.
17. Settlement of dispute.
18. Procedure for hearing of disputes.
19. Decision of Registrar or his nominee or Board of nominees.
20. Recovery of money awarded.
21. Power of a bank to proceed against defaulting members of a Co-operative Society.
22. Audit, inspection and inquiry reports of Societies to be available to banks.
23. Exemption from legislation relating to money lending and agriculturists' debt relief.
24. Extension to other developmental purposes.
25. Power of State Government to make rules.

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(As passed by the Assembly)

[Received the assent of the President on the 17th July, 1976]

(Published in the *Gazette of Meghalaya*, Extraordinary, dated 2nd August, 1976)

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 and incidental thereto.

Be it enacted by the Legislature of Meghalaya in the Twenty-seventh Year of the Republic of India as follows:-

Short title,
extent and
commencement.

1. (1) This Act may be called the Meghalaya Credit Operation and Miscellaneous Provisions Act, 1976.

(2) It extends to the whole of the State of Meghalaya.

(3) It shall come into force on such date as the State Government may, by notification in the Gazette appoint in this behalf and different dates may be appointed for different areas of the State.

Definitions

2. In this Act, unless the context otherwise requires:-

(a) "agriculture" and "agricultural purposes" shall include making land fit for cultivation, cultivation of land, improvement of land including development of sources of irrigation, raising and harvesting of crops, horticulture, forestry, planting and farming, and 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 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 percent of the paid-up share capital of which is held by the Central Government or by any State Government or State Governments or partly by the Central Government and partly by one or more State Governments ;
- (d) “bank” means,-
- (i) the Meghalaya Co-operative Apex Bank Ltd.;
 - (ii) a banking company as defined in the Banking Regulation Act, 1949 ;
 - (iii) the State Bank of India constituted under the State Bank of India Act,1955;
 - (iv) a Subsidiary Bank of India constituted under the State Bank of India (Subsidiary Banks) Act, 1959 ;
 - (v) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;
 - (vi) any banking institution notified by the Central Government under section 51 of the Banking Regulation Act, 1949 ;
 - (vii) the Agriculture Refinance Corporation constituted under the Agricultural Refinance Corporation Act,1963.
 - (viii)the Agro-Industries Corporation as defined in clause (c);
 - (ix) the Agricultural Finance Corporation Limited a company incorporated under the Indian Companies Act, 1956 ; and
 - (x) any other financial institution notified by the State Government in the Official Gazette as a bank for the purpose of this Act.

- (e) “Co-operative Society” means a Co-operative Society registered or deemed to be registered or deemed to be registered under the Meghalaya Co-operative Societies Act (Assam Act I of 1950 as adapted by Meghalaya) the object of which is to provide financial assistance as defined in clause (g) to its members and includes a Co-operative Land Mortgage or Development Bank ;
- (f) “Crop loan” means a loan advanced to an agriculturist for the purpose of seasonal agricultural operations or the marketing of crops and is recoverable within fifteen months from the date of advancement of such loan ;
- (g) “financial assistance” for the purposes of this Act means assistance granted by way of loan, advance, guarantee or otherwise for agricultural purpose ;
- (h) “Land” includes crops, trees, houses, and/or other structures standing thereon.
- (i) “Term loan” means a loan advanced to any agriculturist for meeting outlay relating to the replacement or maintenance of wasting assets including machineries or for capital investment designed to increase the crop output and is repayable within any period exceeding fifteen months but not exceeding twenty years.

Removal of restrictions on alienation.

3. Notwithstanding anything contained in any other law for the time being in force or in any custom or usage having the force of law, it shall be lawful for an agriculturist to alienate his land or any of his interest therein and execute a charge or mortgage on such land or interest in favour of a bank as security, for the purpose of obtaining financial assistance from that bank.

Charge on crops and other moveable property created in favour of a bank.

4. (1) It shall be lawful for an agriculturist to create a charge on any 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, notwithstanding that he may not be owner of the land on and from which the crop is raised.
- (2) A bank may distrain and sell through such officer of the State Government as may be specified by the State Government in this behalf the crop of other produce or other movable 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.

Creation of charges on land in favour of a bank by declaration.

5. (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 bank, he may make a declaration on the lines of the form set out in the Schedule to this Act 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 and such variation shall take effect from such date on which the variation if it had been an original declaration, would have effect under section 7.

Priority of mortgages and charges.

6. (1) Notwithstanding anything contained in any other law for the time being in force where different mortgages or charges have been executed by an agriculturist in respect of the same land both in favour of a bank and in favour of any person, then the mortgage or charge executed in favour of a bank shall have priority over the mortgage or charge in favour of such person irrespective of the fact whether the mortgage or charge in favour of the bank was executed before or after the date of the mortgage or charge in favour of such person.

(Explanation. - In this sub-section the word "person" shall not include the State Government or any Co-operative Society.)

(2) Where in respect of the same land different mortgages or charges have been executed by any agriculturist in favour of:-

- (i) the State Government.
- (ii) a Co-operative Society, and
- (iii) one or more banks,

such mortgages or charges shall rank for priority in accordance with the respective dates of their execution.

(3) Notwithstanding anything contained in any other law for the time being in force, where different mortgages or charges have been executed by any agriculturist in respect of the same land for obtaining crop loan from one bank and a huge subsequent term loan from another bank, then the mortgage or charge in relation to the subsequent term loan shall have priority over the mortgage or charge in relation to the crop loan provided, the mortgage or charge in relation to such term loan was executed with the knowledge and consent of the bank providing the crop loan.

Registration of charge and mortgage in favour of banks.

7.(1) Notwithstanding anything contained in the Indian Registration Act, 1908, a charge in respect of which a declaration has been made under sub-section (1) of section 5, 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 with effect from the date of such charge, variation or mortgage as the case may be, provided that the bank sends to the Deputy Commissioner or the Sub-Registrar within the local limits of whose jurisdiction, the whole or any part of the property charged or mortgaged is situated, within the time stipulated by the State Government for this purpose, by registered post acknowledgement due, a copy of the document creating such charge, variation or mortgage duly certified to be a true copy by an employee of the bank authorised to sign on its behalf.

(2) The Deputy Commissioner or the Sub-Registrar receiving the declaration in respect of a charge or variation or a mortgage referred to in sub-section (1) shall as soon 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.

Noting of charge or mortgage created in favour of a bank in the Record of Rights.

8. (1) 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 District Council or such Revenue Official as may be designated in this behalf by the State Government of the particulars of the charge or mortgage in its favour.

(2) The District Council or the Revenue Official, as the case may be, shall make note of the particulars of charge or mortgage in the record of rights as may be available relating to the land over which the charge or mortgage has been created.

Restrictions on creation of tenancy by an agriculturist borrower.

9. (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 interest therein without prior permission in writing of the bank, if he had 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 interest created in contravention of this section shall be void.

Recovery of dues of a bank through a prescribed Authority.

10.(1) An official of the State Government notified in the Official Gazette by the State Government as the prescribed authority for the purpose of this section may, on the application of a Bank, make an order on 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 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 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 amount's due.

(2) Every order passed by the prescribed authority in terms of sub-section (1) shall be deemed to be a decree of a Civil Court and shall be executed in the same manner as the decree of such court.

(3) Nothing in this section shall debar a bank from seeking to enforce its rights in any other manner open to it under any other law for the time being in force.

Rights of a bank to acquire and dispose of immovable property.

11.(1) Notwithstanding anything contained in any law of the time being in force, a bank shall have 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 money 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 provided for in sub-section (2), the period of lease shall not exceed one year at a time and the lease shall not acquire any interest in that property notwithstanding any provision to the contrary in any law for the time being in force.

(4) A sale by a bank of land or interest therein in term of this section shall be subject to any provision of any law in force which may place restrictions on purchase of land by non-agriculturists or ceiling for acquisition of land or by a person not belonging to a particular tribe or Scheduled Caste or fragmentation of land.

Exemption banks from restrictions on acquisition of land in excess of ceiling.

12. Nothing in any law for the time being in force imposing a ceiling or limit on the holding of land shall apply to a bank acquiring land in terms of section 11 and holding such land till such time, the bank is in a position to sell the land in the manner provided in section 11 or otherwise, at a price which is adequate to cover its dues.

Bank eligible to become member of a Co-operative Society.

13. Notwithstanding anything contained in the Meghalaya Co-operative Societies Act (Assam Act I of 1950 as adapted by Meghalaya) 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.

Power of Co-operative Societies to borrow from banks.

14. Notwithstanding anything contained in the Meghalaya Co-operative Societies' Act (Assam Act I of 1950 as adapted by Meghalaya), it shall be lawful for any Co-operative Society to borrow from a bank.

Inspection of books of a Co-operative Society by a Bank.

15. (1) A bank shall have the right to inspect the books of any Co-operative Society which has either applied to the Bank for financial assistance or is indebted to the bank on account of financial assistance granted earlier.

(2) The Inspection may be carried out by an officer or any other member of the paid staff of the bank with previous sanction in writing of the Registrar of Co-operative Societies.

(3) The officer or any other member of the paid staff of the bank, undertaking such inspection, shall, at all reasonable time, 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 societies such information, statements and returns as may be required by him to assess the financial conditions of the Society and the safety of financial assistance to be made to the Society or already made to it.

Disputes between a bank and a Co-operative Society.

16. (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 Co-operative 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 of Co-operative Societies for decision.

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

Settlement of dispute.

17. (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 16, the Registrar shall decide the dispute himself or refer it for disposal to a nominee or a Board of nominees appointed by him.

(2) Where any dispute is referred under the foregoing sub-section for decision to the Registrar's 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 16, the Registrar, may if he thinks fit, suspend proceedings in regard to any dispute, if the question at issue between a Co-operative Society and a bank is one involving complicated questions of law and fact, until the question has been tried by a regular suit instituted by one of the parties to the dispute. If any such suit is not instituted within two months from the Registrar's order suspending proceedings, the Registrar shall take action as is provided in subsection (1).

Procedure for hearing of disputes.

18. The Registrar or his nominees 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.

Decision of Registrar or his nominees or Board of nominees.

19. When the dispute is referred for decision, the Registrar or his nominee or she Board of nominees may, after giving a reasonable opportunity to the parties to the dispute to be heard, make an award 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 shall be binding on the parties to the dispute.

Recovery of money awarded.

20. Every award given by the Registrar or the Registrar's nominee or the Board of nominees under section 19 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.

Power of a bank to proceed against defaulting member of a co-operative society.

21. (1) If a Co-operative Society is unable to pay its debt to a bank from which it has borrowed, by reasons of its members defaulting in the payment of the moneys due by them, the bank may direct the Committee of such Society to proceed against such members by taking action under the Meghalaya Co-operative Societies' Act (Act I of 1950 as adapted by Meghalaya).

(2) If the Committee of a Co-operative Society fails to proceed against its defaulting members within a period of sixty days from the date of receipt of such direction from the bank, the bank itself may proceed against such defaulting members, in which event, the provisions of the Meghalaya Co-operative Societies' Act (Assam Act I of 1950 as adapted by Meghalaya) the rules and the bye-laws made thereunder shall apply as if all references to the Society or its Committee in the said provision, rules and bye laws were references to the bank.

(3) Where a bank has obtained a decree or award against a Co-operative Society indebted to it, the bank may proceed to recover such moneys 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.

Audit, inspection and inquiry reports of Societies to be available to banks.

22. The Registrar of Co-operative Societies shall draw the attention of the bank financing a Co-operative Society to the defects noticed in every audit or inquiry or inspection of such Society conducted as per provisions of the Meghalaya Co-operative Societies' Act (Assam Act I of 1950 as adapted by Meghalaya) and shall also supply a copy each of such audit, inquiry or inspection report, if demanded, in writing, by the bank.

Exemption from legislation relating to money lending and agriculturists debt relief.

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

Extension to other developmental purposes.

24. The State Government may by notification, extend from time to time the provisions of this Act to facilitate adequate flow of credit to agriculturists and non-agriculturists for housing, industrial, trade or any other developmental purposes through banks.

Power of State Government to make rules.

25. 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.

SCHEDULE

[[See Section 5 (1)]]

FORM

Declaration under sub-section (1) of section 5 of the Meghalaya Credit Operation and Miscellaneous Provisions Act, 1976.

I.....son/daughter of Shri / Shrimati.....aged.....years,
 Residing at.....P.O.....P.S.....District.....,being desirous
 of availing of financial assistance in the form offrom the.....
 (details of financial assistance to be stated) (name and particulars of the
 Bank to be stated)

make this declaration, as required by section 5 (1) of the Meghalaya Credit Operation and Miscellaneous Provisions Act, 1976, that I own / have interest

as..... the/on the land /immovable property specified below.

(details of interest to be stated and
 strike out what is not applicable)

and that I hereby do create a charge on the said land/immovable property in favour of the said
 (her name of the Bank to be stated)

as security for the payment of the aforesaid financial assistance and for all future financial assistance, if any, which the Bank may make to me together
 with interest, costs and expenses thereon.

Particulars of the land/immovable property.

Name of village, where the land immovable property situates.	Name of Laskarship/Nokmaship/Mouza/Syiemship/Wahadarship/Dolloiship/Sirdarship,etc.,where the land/immovable property situates	Name of Blocks where the land/immovable property situates.	Name of Subdivision/District where the land/immovable property situates	Name of P.O. and Police Station where the land/Immovable property situates
1	2	3	4	5

Description of land/immoveable property including the name of locality where situates	Name of Owners/with Full address	Nature, extent and value of Interest of the agriculturist	Type of land/ Immoveable Property (in Case of land whether wet or dry cultivation)	Dag No. In case of Plain Mouza of Garo Hills	Town/Dag No. and Patta No. where Applicable	Area in Acres	Approximate value	Encumbrance If any, with Nature of encumbrances	Remarks, if Any
6	7	8	9	10	11	12	13	14	15

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

Witness:-

Signed and delivered to the above named in the presence of:-

Attested by: -

Signature of Declarant.

Forwarded with compliments to thewith a request to include the particulars of the Charge..... created under the declaration in the Record of Rights and returned to the Bank for its records.

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 the day of.....19 ..

Revenue Officer/District Council.....

Forwarded with compliment to the Sub-Registrar with a request to record the particulars of the Charge created under the declaration in his office.

Manager/Agent,

..... BANK.

Place.....

Returned with compliments to the Manager/Agent..... Bank, the Charge created under the declaration is duly recorded.

Sub-Registrar.