

MINISTRY OF FINANCE AND COMPANY AFFAIRS
(Department of Economic Affairs)
(BANKING DIVISION)
NOTIFICATION

(आनंद राव अडसुल)
(ANAND RAO ADSUL)
वित्त मंत्रालय में राज्य मंत्री

Minister of State in the Ministry of Finance

New Delhi, the 20th September, 2002

S.O. 1020 (E).—In exercise of the powers conferred by Sub-section (1) and clause (b) of Sub-section (2) of Section 38 read with Sub-Sections (4), (10) and (12) of Section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Ordinance, 2002 (Ord. 3 of 2002), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement.—(1) These rules may be called the Security Interest (Enforcement) Rules, 2002.
(2) They shall come into force from the date of their publication in the Official Gazette.
2. Definitions.—In these rules, unless the context otherwise requires,—

- (a) “authorised officer” means an officer not less than a chief manager of a public sector bank or equivalent, as specified by the Board of Directors or Board of Trustees of the secured creditor or any other person or authority exercising powers of superintendence, direction and control of the business or affairs of the secured creditor, as the case may be, to exercise the rights of a secured creditor under the Ordinance;
- (b) demand notice means the notice in writing issued by a secured creditor or authorised officer, as the case may be, to any borrower pursuant to sub-Section (2) of Section 13 of the Ordinance;
- (c) “Ordinance” means the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (Second) Ordinance, 2002 (Ord. 3 of 2002);
- (d) “approved valuer” means a valuer as approved by the Board of Directors or Board of Trustees of the secured creditor, as the case may be;
- (e) Words and expressions used and not defined in these Rules but defined in the Ordinance shall have the meanings respectively assigned to them in the Ordinance.

3. Demand Notice:—(1) The service of demand notice as referred to in Sub-section (2) of Section 13 of the Ordinance shall be made by delivering or transmitting at the place where the borrower or his agent, empowered to accept the notice or documents on behalf of the borrower, actually and voluntarily resides or carries on business or personally works for gain, by registered post with acknowledgement due, addressed to the borrower or his agent empowered to accept the service or by Speed Post or by courier or by any other means of transmission of documents like fax message or electronic mail service:

Provided that where authorised officer has reason to believe that the borrower or his agent is avoiding the service of the notice or that for any other reason, the service can not be made as aforesaid, the service shall be effected by affixing a copy of the demand notice on the outer door or some other conspicuous part of the house or building in which the borrower or his agent ordinarily resides or carries on business or personally works for gain and also by publishing the contents of the demand notice in two leading newspapers, one in vernacular language, having sufficient circulation in that locality.

(2) where the borrower is a body corporate, the demand notice shall be served on the registered office or any of the branches of such body corporate as specified under sub-rule(1).

(3) Any other notice in writing to be served on the borrower or his agent by authorised officer, shall be served in the same manner as provided in this rule.

(4) Where there are more than one borrower, the demand notice shall be served on each borrower.

4. Procedure after issue of notice.—If the amount mentioned in the demand notice is not paid within the time specified therein, the authorised officer shall proceed to realise the amount by adopting any one or more of the measures specified in Sub-section (4) of Section 13 of the Ordinance for taking possession of movable property, namely:—

- (1) Where the possession of the secured assets to be taken by the secured creditor are movable property in possession of the borrower, the authorised officer shall take possession of such movable property in the presence of two witnesses after a Panchanama drawn and signed by the witnesses as nearly as possible in Appendix-I to these rules.
- (2) After taking possession under sub-rule (1) above, the authorised officer shall make or cause to be made an inventory of the property as nearly as possible in the form given in Appendix-II to these rules and deliver or cause to be delivered, a copy of such inventory to the borrower or to any person entitled to receive on behalf of borrower.
- (3) The authorised officer shall keep the property taken possession under sub-rule (1) either in his own custody or in the custody of any person authorised or appointed by him, who shall take as much care of the property in his custody as an owner of ordinary prudence would, under the similar circumstances, take of such property:

