

**HIMACHAL PRADESH
FINANCIAL CORPORATION**

**ISSUE OF BONDS REGULATIONS,
2004**

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HIMACHAL PRADESH FINANCIAL CORPORATION, SHIMLA

(Established under the scheme for the Re-organisation of the Himachal Pradesh Financial Corporation under the Himachal Pradesh Re-organisation Act, 1966 read with State Financial Corporation Act, 1951).

Himachal Pradesh Financial Corporation (issue of Bonds) Regulations, 2004.

In exercise of the powers conferred by section 48 of the State Financial Corporations Act, 1951 (LXIII of 1951), Board of Directors of the Himachal Pradesh Financial Corporation after consultation with the Small Industries Development Bank of India and with the previous sanction of the State Government is pleased to make the following Bond Regulations, namely:—

1. *Short title and application.*—(1) These regulations may be called the Himachal Pradesh Financial Corporation Issue of Bonds) Regulations, 2004.

(2) They shall apply to bonds issued and sold by the Corporation under Sub-Section (1) of Section 7 of the State Financial Corporations Act, 1951.

2. *Definitions.*—In these regulations, unless the context otherwise requires:—

(a) “act” means the State Financial Corporation Act, 1951;

(b) “corporation” means H. P. Financial Corporation;

(c) “bond” means a bond issued and sold by the Corporation under Sub-Section (1) of Section 7 of the Act;

(d) “defaced bond” means a bond which has been made illegible and rendered undecipherable in material parts and the material parts of a bond are those where:—

- (i) (a) the number of the bond,
- (b) the face value of the bond, or
- (c) payments of interest, are recorded, or

(ii) the endorsement or the name of the payee is written, or

(iii) the renewal receipt is supplied;

(e) “form” means a form as set out in the Schedule to these regulations;

(f) “lost bond” means a bond which has actually been lost and shall not mean a bond which is in possession of some person adversely to the claimant;

(g) “mutilated bond” means a bond which has been destroyed, torn or damaged in material part thereof;

(h) “office of issue” means the Head Office of the Corporation;

(i) “prescribed officer” means such officer of the Corporation as may be authorised by the Board of Directors of the Corporation for the purposes of regulations 9, 10, 11, 13, 14 and 15.

3. *Form of the bond and the mode of transfer thereof, etc.*—(1) A bond may be issued in the form of promissory note payable to or to the order of, a certain person.

(2) A bond shall be transferable by endorsement and delivery like a promissory note payable to order.

(3) No endorsement of a bond shall be valid unless made by the signature of the holder or his duly constituted attorney or representative inscribed on the back of the bond itself.

(4) No writing on a bond is valid for the purpose of negotiation if such writing purports to transfer only part of the amount denominated by the bond.

(5) (i) A bond shall be issued over the signature of the Managing Director of the Corporation which may be printed engraved or lithographed or impressed by such other mechanical process as the Corporation may direct.

(ii) A signature so printed, engraved, lithographed or otherwise impressed shall be a valid as if it had been inscribed in the proper handwriting of the signatory himself.

4. *Trust not recognised.*—The office of issue shall not be bound or compelled to recognise in any way, even when having notice thereof, any trust or any right in respect of a bond other than an absolute right thereto in the holder.

5. *Person disqualified to be holders.*—No minor and no person who has been found by competent court to be of unsound mind shall be entitled to be a holder.

6. *Payment of interest.*—(1) Interest on a bond shall be paid by the office of issue or any other office in case payment at such other office is permitted in the relative bond prospectus subject to compliance by the holder with such formalities as the office of issue may require, on presentation of the bond, by interest warrant in favour of the holder payable at the office of issue or any other office as the case may be.

(2) Notwithstanding anything contained in sub-regulation (1) the office of issue may pay interest on a bond, the interest on which is payable at any other office, by an interest warrant payable at such office.

7. *Procedure when bond is lost, etc.*—(1) Every application for the issue of a duplicate bond in place of a bond which is alleged to have been lost, stolen, destroyed, mutilated or defaced, either wholly or in part, shall be addressed to the office of issue, and shall contain the following particulars, namely:—

(a) Particulars of the Bond according to the following form:—

Bond for Rs.....No.....
of the.....percent bond,

(b) Last half year for which interest has been paid,

(c) the person to whom such interest was paid,

(d) the person in whose name bond was issued (if known),

(e) the place of payment of interest at which the bond was enfaced,

(f) the circumstances attending the loss, theft, destruction, mutilation or defacement,
and

(g) whether the loss or theft was reported to the police.

(2) Such application shall be accompanied by:—

(a) where the bond was lost in course of transmission by registered post, the post office registration receipt for the letter containing the bond,

(b) a copy of the police report, if the loss or theft was reported to the police,

(c) if the applicant is not the registered holder. An affidavit sworn before a magistrate, testifying that the applicant was the last legal holder of the bond and all documentary evidence necessary to trace back the title to the registered holder, and

(d) any position or fragments which may remain of the lost, stolen, destroyed, mutilated or defaced bond.

(3) A copy of the application addressed to the office of issue shall also be sent to the office of the Bank where interest is payable, provided that it shall not be necessary to send copies of the enclosures accompanying the application.

8. *Notification in gazette.*—The loss, theft, destruction, mutilation or defacement of a bond or portion of a bond shall forthwith be notified by the applicant in three successive issue of the official gazette of Himachal Pradesh and of the local official gazette if any, of the place where the loss, theft, destruction, mutilation or defacement occurred. Such notification shall be in the following form or as nearly in such form as circumstances permit:—

“Lost” (“stolen”, “destroyed”, Mutilated” or “defaced” as the case may be).

The Himachal Pradesh Financial Corporation bond No..... of the percent. Bond for Rs..... originally standing in the name of..... and last endorsed to..... the proprietor, by whom it was never endorsed to any other person having been lost (stolen, destroyed, mutilated or defaced) notice is hereby given that payment of the above bond and the interest thereupon has been stopped at the office of issue, and that application is about to be made or has been made for the issue of duplicate in favour of the proprietor. The public are cautioned against purchasing or otherwise dealing with the above mentioned bond.

Name of person notifying.....

Residence.....

9. *Issue of duplicate Bond and taking of Indemnity.*—(1) After the publication of the last notification prescribed in regulation 8, the prescribed officer shall, if he is satisfied of the loss, theft, destruction mutilation or defacement of the bond and of the justice of the claim of the applicant, cause the particulars of the bond to be included in a list published under regulation 10, and shall order the office of issue:—

(a) if only a portion of the bond has been lost, stolen, destroyed, mutilated or defaced, and if a portion thereof sufficient for its identification has been produced, to pay interest and to issue to the applicant, on execution of an indemnity bond such as is hereafter mentioned and on payment of the prescribed fee, a duplicate bond in place of that of which a portion has been so lost, stolen, destroyed, mutilated or defaced either immediately after the publication of the list under regulation 10 or on the expiry of such period as the prescribed officer may consider necessary from the date of the Publication of the said list ;

(b) if no portion of the bond so lost, stolen, destroyed, mutilated or defaced, sufficient of its identification, has been produced ;

(i) to pay to the applicant, two years after the publication of the said list and on the execution of an indemnity bond in the manner hereinafter prescribed, the interest in respect of the bond so lost, stolen, destroyed, mutilated or defaced till the expiry of the period of six years as next hereinafter provided ; and

(ii) to issue to the applicant on payment of the prescribed fee a duplicate bond in place of the bond so lost, stolen, destroyed, mutilated or defaced six years after the date of publication of the said list ;

Provided that:—

(i) if the date on which the bond is due for repayment falls earlier than the date on which the said period of six years expires, the prescribed officer shall, within six weeks of the former date invest the principal amount due on the bond in a bank where the Corporation invests its funds, and shall repay this amount, together with any interest which may have accrued thereon in such bank, to the applicant at the time when a duplicate bond would otherwise have been issued, and

(ii) if at any time before the issue of the duplicate bond the original bond is discovered or it appears to the office of issue for other reasons that the order should be rescinded, the matter shall be referred to the prescribed officer for further consideration and in the meantime all action on the order shall be suspended. An order passed under this sub-regulation shall on expiry of the period of six years referred to therein, become final unless it is in the meantime rescinded or otherwise modified.

(2) The prescribed officer may, at any time prior to the issue of a duplicate bond, if he finds sufficient reason, alter or cancel any order made by him under this regulation and may also direct that the interval before the issue of a duplicate bond shall be extended by such period not exceeding six years as he may think fit.

(3) (i) **Indemnity Bonds—**

(a) when executed under sub-regulation (1) (b) (1) shall be for twice the amount of interest involved, that is to say, twice the amount of all back interest accrued, due on the bond plus twice the amount of all interest to accrue due thereon during the period which will have to elapse before the issue of a duplicate bond can be made ; and

(b) in all other cases shall be for twice the face value of the bond plus twice the amount of interest calculated in accordance with clause(s).

(ii) The prescribed officer may direct that such indemnity bond shall be executed by the applicant alone or by the applicant and one or two sureties approved by him as he may think fit.

10. *Publication of list.*—(1) The list referred to in regulation 9 shall be published half yearly in the Himachal Pradesh Government Gazette in the months of January and July or as soon afterwards as may be convenient.

(2) All bonds in respect of which an order has been passed under regulation 9 shall be included in the first list published next after the passing of such order and thereafter such bonds shall continue to be included in every succeeding list until the expiration of six years from the date of first publication.

(3) The list shall contain the following particulars regarding each bond included therein, namely, the name of the issue, the number of the bond, its value, the name of the person to whom it was issued, the date from which it bears interest, the name of the applicant for a duplicate, the number and date of the order passed by the prescribed officer for payment of interest of issue of a duplicate, and the date of publication of the list in which the bond was first included.

11. *Determination of a mutilated bond as a bond requiring renewal.*—It shall be at the option of the prescribed officer to treat a bond which has been mutilated or defaced as a bond requiring issue of a duplicate under regulation 9 or mere renewal under regulation 14.

12. *When a bond is required to be renewed.*—(1) A holder of a bond may be required by the office of issue to receipt the same for renewal in any of the following cases, namely:—

(a) if only there is sufficient space on the back of the bond one further endorsement or if any word is written upon the bond across the existing endorsement or endorsements ;

- (b) if the bond is torn or any way damaged or crowded with writing or unfit in the opinion of the office of issue;
 - (c) if any endorsement is not clear and distinct or does not indicate the payee or payees, as the case may be, by name or is made otherwise than in one of the endorsement cages on the back of the bond;
 - (d) if the interest on the bond has remained undrawn for ten years or more;
 - (e) if the interest cages on the reverse of the bond have been completely filled or if the vacant prescribed cages on the reverse of the bond do not correspond with the half years for which interest has become due on the date when the bond is presented for drawal of interest;
 - (f) if the bond have been encased three times for payment of interest is presented for reinforcement; and
 - (g) if in the opinion of the office of issue the title of the person presenting the bond for payment of interest is irregular or not fully proved.
- (2) When requisition for renewal of a bond has been made under sub-regulation (d) payment of any further interest thereon shall be refused until it is received for renewal and actually renewed.

13. *Person whose title the bond of deceased sole holder may be recognised.*—(1) The executors or administrators of a deceased sole holder of a bond (whether a Hindu, Mohammedan, Parsi or otherwise) and the holder of a succession certificate issued under part X of the Indian Succession Act, 1925 (XXXIX of 1925), in respect of the bond shall be the only persons who may be recognised by the office of issue (subject to any general or special instructions of the prescribed officer) as having any title to the bond.

(2) Notwithstanding anything contained in section 45 of the Indian Contract Act, 1872 (IX of 1872), in the case of a bond issued, sold or held payable to two or more holders the survivors or survivor and on the death of the last survivor, his executors, administrators, or any person who is the holder of succession certificate in respect of such bond shall be the only person who may be recognised by the office of issue (subject to any general or special instruction of the prescribed officer) as having any title to the bond.

(3) The office of issue shall not be bound to recognise such executors or administrators unless they shall have obtained probate or letters of administration or other legal representation, as the case may be from a competent court or office in India, having effect at the place of situation of the office of issue :

Provided that in any case where the prescribed officer shall in his absolute discretion think fit, it shall be lawful of him to dispense with the production of probate, letters of administration or other legal representation upon such terms as to indemnity or otherwise as he may think fit.

14. *Receipt form renewal, etc.*—(1) Subject to any general or special instructions of the prescribed officer, the office of issue, by its order, on the application of the holder, on his delivering the bond or bonds and on his satisfying the office of the issue regarding the justice of his claim, renew, sub-divide consolidate a bond or bonds provided the bond or bonds has or have been received in Form I, II or III, as the case may be, and the prescribed fee, if any has been paid.

(2) The office of issue may, under the orders of the prescribed officer, require the applicant referred to in sub-regulation (1) to execute a bond in Form IV with one or more sureties approved by him.

15. *Renewal of bond in case of dispute as to title.*—Where there is a dispute as to the title to a bond in respect of which an application for renewal has been made, the prescribed officer may—

- (a) where any party to the dispute has obtained a final decision from a court of competent jurisdiction declaring him to be entitled to such bond, issue a renewed bond in favour of such party, or
- (b) refuse to renew the bond until such a decision has been obtained.

Explanation.—For the purposes, of this regulation the expression “final decision” means a decision which is not appealable or a decision which is appealable but against which no appeal has been filed within the period of limitation allowed by law.

16. *Liability in respect of bond renewed, etc.*—When a duplicate bond has been issued under regulation 9 or a renewed bond has been issued or a new bond has been issued upon sub-division or consolidation under regulation 14, in favour of a person, the bond so issued shall be deemed to constitute a new contract between the Corporation and such persons and all persons deriving title thereafter through him.

17. *Discharge.*—The corporation shall be discharged from all liability in respect of the bond or bonds and on maturity or in place of which a duplicate, renewed, sub-divided or consolidated bond or bonds has or have been issued:—

- (a) in the case of payment, after the lapse of six years from the date on which payment was due;
- (b) in the case of a duplicate bond after the lapse of six years from the date of the publication under regulation 10 of the list in which the bond is first mentioned or from the date of the payment of interest on the original bond, whichever date is later.
- (c) in the case of a renewed bond or of a new bond issued upon sub-division or consolidation after the lapse of six years from the date of issue thereof.

18. *Discharge in respect of interests.*—Save as otherwise expressly provided in the terms of the bond no person shall be entitled to claim interest on any such bond in respect of any period which has elapsed after the earliest date on which demand could have been made for the payment of the amount due on such bond.

19. *Discharge of a bond.*—When bond becomes due for payment of principal, the bond shall be presented at the office of the Corporation at which the interest thereon is payable or at the office of issue duly signed by the holder on its reverse.

20. *Fees.*—A fee of Re. 1 shall be paid in respect of each new bond issued on renewal sub-division or consolidation under regulation 14 and in respect of a duplicate bond issued under regulation 9 :

Provided that no fee shall be payable in respect of the renewal of a bond which bears no endorsement other than an endorsement by the Himachal Pradesh Financial Corporation and the renewal endorsement when such renewal is required only on account of there being no further space on the bond in which to record payment or encasement for payment of interest.

THE SCHEDULE

[See regulation 2(c)]

FORM I

[See regulation 14(1)]

FORM OF ENDORSEMENT FOR RENEWAL OF A BOND

Received in lieu hereof a renewed bond payable to (name of the holder).....
.....with interest payable at.....
signature of the holder/duly authorised representative of (Name of holder).....

FORM II

[See regulation 14(1)]

FORM OF ENDORSEMENT FOR SUB-DIVISION OF A BOND

Received in lieu hereof.....bond for Rs.....
respectively payable to (name of holder).....with interest
payable at signature of the holder/duly authorised representative of name of holder).....

FORM III

[See regulation 14(1)]

FORM OF ENDORSEMENT FOR CONSOLIDATION OF BONDS

Received in lieu hereof a new bond payable to (name of holder).....
for Rs.....by consolidation with bond or
bonds Nos.....(mentioning
number and amount of the other bonds desired to be consolidated with it and specifying the
issue) with interest payable at.....

Signature of the holder/duly authorised representative of (name of holder).....

FORM IV

[See regulation 14(2)]

(a) Principal—know all men by these presents that we.....
son of.....resident of.....
.....and.....
son of.....resident of.....and

(b) Sureties hereby bind ourselves and each of us, our and each of our heirs, executors, administrators and representatives and all of them jointly and severally to the Himachal Pradesh Financial Corporation as constituted by the State Financial Corporations Act, 1951 (hereinafter called the said Corporation) for payment of the sum of Rs..... to the said Corporation, its certain attorneys, successors and assigns.

AND I/each of us the said..... hereby covenant with the said Corporation that if any suit shall be brought touching the subject matter of this obligation or the condition hereunder written in any court subordinate to the Himachal Pradesh High Court, the same may at the instance of the said corporation who may be a party to such suit be removed unto, tried and determined by the said High Court in its extraordinary original civil jurisdiction as the case may be.

Whereas the said.....(a) has applied to the HPFC, for *the renewal/consolidation/sub-division of the bond (bonds) issued by the said Corporation mentioned in the Schedule hereto.

*Out of the several alternative mentioned hereafter, retain the one which applies to the case and strike out others.

AND WHEREAS the said H. P. Financial Corporation have consented and agreed to accept the said application on the said

(a).....with two good and sufficient sureties entering into and executing the above written bond subject to the condition hereunder written.

- (a) Principal if there are two sureties,
- (a) Principal,
- (b) Names of the Principal and sureties (a).

AND WHEREAS the above bounden.....(and).....at the request of the said become surety (sureties) for (a) and to join with the said..... (a) in executing the above written bond.

Now the condition of the above written bond is such that if the above bounden..... (b) or each of them or their heir/heirs, executors, administrators or representatives or any or either of them shall from time and at all times hereafter effectually save, defend, keep harmless and indemnified the said corporation from and against the claims and demands of all persons claiming to be entitled to the bond (bonds) issued by the said Corporation mentioned in the Schedules hereto or to any interest thereon and of all other persons whomsoever in respect of the said bond (bonds) or the renewal thereof or the payment of any interest thereon and from and against all damages, losses, costs, charges and expenses which the said corporation may sustain, incur or be liable to for or in consequence of any such claim, or demand or by reason of issue of renewed bond(bonds) as aforesaid or the payment of any interest due on the said

bond (or bonds) or renewed bond (bonds) then the above written bond shall be void but otherwise the same shall remain in full force and effect.

Signature and delivered by.....

.....
in the presence of.....

and of.....

Date.....

Nature and description of the bond	Number	Date of Issue	Amount