

Law (1925) Department.
(Education)

Ordinary SERIES.

G.O. No. 1279.

DATED 23-7-1925

[Despatch Abstract.]

Grant-in-aid Code.

Building grants--mortgage deeds and deeds of acceptance--
orders passed.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
513	16.8.04			2088	21.2.22		
484	14.7.05			570	10.5.22 (H.S.)		
397	8.4.14			602	1.5.23 (H.S.)		
868	22.7.14			1160	4.4.24		
965	Rec. (Spl.) 8	20.5.20 (H.S.)		508	7.4.24 (H.S.)		

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

C.F. 30-41,000-8-9-24.

LAW (EDUCATION)

DEPARTMENT.

Received



192

Registered

192

Subject.

Building Grant - Sarah Tucker College, Palamcottah.

ENCLOSURES.

No.

R.O.C.No. 1628-D/22.

Spare copies

Station Madras, Dated the 2nd April 1925

From (Name) R.G.GRIEVE, Esq., M.A., F.R.G.S.,

(Designation) DIRECTOR OF PUBLIC INSTRUCTION.

To The Secretary to the Government of Madras,

LAW (EDUCATION) Department.

Sir,

In G.O.No.Mis.602 Law (Education) dated 1-5-23, Government sanctioned the inclusion in the list of approved works of the extensions to the Sarah Tucker College, Palamcottah, at an estimated cost of Rs.6,220/-. The work has been completed at a cost of Rs.5,747/- and the Correspondent of the College has submitted a deed of acceptance in the form prescribed in Appendix R of the Grant-in-Aid Code, for the grant of Rs.2,873/- admissible on the cost of the building in lieu of the usual mortgage deed as prescribed in Appendix 'O' of the Grant-in-Aid Code.

I consulted

(P.T.O)

I consulted the Government Solicitor, Madras, as to whether the deed of acceptance might be accepted, and in reply the Government Solicitor has stated that the document is ^{only} a personal covenant and he has advised that it be not accepted as it is no security and does not entitle Government to proceed against the property - vide his letter (copy enclosed). In view of this opinion, I have the honour to request that Government will be pleased to give a ruling as regards the value of the deed of acceptance printed as Appendix 'R' to the Grant-in-Aid Code and the cases in which it ~~is~~ may be accepted. It has been the custom of this department to accept this deed in cases where the amount was comparatively small, and to insist on mortgage deeds in the forms printed as Appendix 'O' and 'P' to the Grant-in-Aid Code in the case of larger amounts. If the deed printed as Appendix 'R' is valueless, this procedure must be abandoned, and Appendix 'R' must be deleted from the Grant-in-Aid Code. In this connection, I would ask also for a ruling as to the value of the deed printed as Appendix 'Q' to the Grant-in-Aid Code and the cases in which it should be accepted.

I enclose herewith the deed of acceptance executed by the Management of the Sarah Tucker College, Palamcottah. I am informed by the Secretary, C.M.S. that a similar deed of acceptance was accepted by the Director of Industries from the Management of the C.M.S. Industrial School for Blind Girls at Palamcottah for a grant of Rs.3,963/- sanctioned for that school in G.O.No.965 Mis., Revenue (Special) dated 20-5-20. The Secretary, C.M.S., is of opinion that his power of attorney does not extend to the signing of mortgage deeds in the forms printed as Appendix 'O' & 'P' to the Grant-in-Aid Code.

I have the honour to be,
Sir,
Your most obedient servant,

for Director of Public Instruction.

M.R.P.3/4.

Copy of letter No.299 dated 17th February 1925 from the Government Solicitor, Madras, to the Director of Public Instruction.

I have the honour to acknowledge receipt of your letter R.O.C.No.1628-D/22 of the 6th instant forwarding me a deed of acceptance for Rs.2873/-.

2. I do not consider that the document is a security which Government should accept, it is no security. Government cannot under it proceed against the property should it desire to do so, it is only a personal covenant and the premises could not be proceeded against under it. I would suggest either forms 'O' or 'P' of the Grant-in-Aid Code be adopted in its place.

3. I return the enclosure.

(True Copy)

for Director of Public Instruction.

Duplicate
M.H. 4.5
auth
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Appendix R.

R.M.W.

The Church Missionary Trust Association Ltd, hereby accepts the grant of Rupees Two Thousand, eight hundred and seventy three only sanctioned by Government through the Director of Public Instruction, Madras, for the C.M.S. Sarah Tucker College Palamcottah in the district of Tinnevely in G.O. No. 602 Mis - Law (Education) dated the 1st May 1923, and in consideration of such grant the said Association hereby for itself and its successors in office and the owners for the time being of the premises now occupied by the said school agrees that if the school is at any time hereafter abolished or the buildings thereof diverted to other than educational purposes approved by Government, Government shall be paid by the owner thereof for the time being a sum representing such proportion of the then market value of such buildings as the grant above referred to bears to the present market value thereof on completion of the buildings now proposed, namely, Rs. 2873/-. The decisions to what is the market value of such buildings at such future period shall rest with the Government of Madras. The above provision shall cease to have effect at the expiration of forty years from the date hereof without prejudice however to any right that may have accrued to Government prior to the expiration of such period.

Dated this day of One
Thousand Nine Hundred and twenty five.

Signed by the Rev. Robert
William Peachey the duly
constituted attorney of
The Church Missionary
Trust Association Ltd,
in the presence of

(1)

(2)

LAW (EDUCATION)

DEPARTMENT.

5

Received.....192 . Registered.....192 .

Subject.

Building grant -Sarah Tucker College, Palamcottah.

L. & 1901 B

23/7/25

CW



ENCLOSURES.

No.

R.O.C. No. 1628 D/22

Spare copies

Station Madras , Dated the 21st July 1925 192 .From (Name) R.G. Grieve Esq., M.A.,(Designation) Ag. Director of Public Instruction.

To The Secretary to the Government of Madras,

LAW (EDUCATION)

Department.

Sir,

I have the honour to invite your attention to my letter R.C.No. 1628 D/22, dated 2nd April 1925, regarding the value of the deed of acceptance executed by the management of the Sarah Tucker College, Palamcottah, in respect of the grant sanctioned in G.O.No. Mis.602, Law (Education) dated 1st May 1923 and to request that you will be so good as to obtain the early orders of Government thereon.

2. I further request that the deed of acceptance -- referred to, above may be returned as soon as possible.

I have the honour to be,

Sir,

Your most obedient servant,

for Director of Public Instruction.

P.R.K. 22/7



Building grants---Deeds---

(C.No.965-B) From the D.P.I., No.1628-D/22 dated 2-4-25.

Rule 53(ii) of the Grant in Aid Code provides that, before ~~any~~ building grant is paid to the management of a school, the owner or the manager of ~~the~~ property may be required to execute a -- mortgage of the property or a deed of acceptance in respect of the grant. The prescribed forms of the various deeds are printed as Appendices O, P, Q & R of the Code. The corresponding provision in the rules issued under the Ely. Edn. Act is contained in Rule 4⁽ⁱⁱ⁾ ~~(i)~~ on p.6, and Appendices 29, 30, 31 & 32 on pp.29-34 of G.O.No.208 dated 21-2-22. The occasions on which each form is to be used are identical in both cases. Attention is invited to G.O.No.508 dated 7-4-24 which gives information as regards the use of the forms ^{by deed} ~~by deed~~ prescribed under the Ely. Edn. Act. Submitted that a similar order may be issued in respect of the forms under the Grant-in-Aid Code.

2. The forms in Appendices Q & R of the Grant-in-Aid Code provide for deeds of acceptance, the former to be used when the amount of the grant exceeds Rs.500 but does not exceed Rs.1000, and the latter when the grant does not exceed Rs.500. Under G.O.No.484 Edl., dated 14-7-1905, the D.P.I. has been granted discretion to dispense with mortgage bonds or deeds of acceptance in the case of responsible persons and associations. It will be seen from paragraph 5 of the Govt. Solicitor's opinion on p.8 of G.O.No.513 dated 16-8-1904 that the deed of acceptance was not considered valid by him; but ~~that~~ the two -

(D)
(in line 4th
below)

(W)

(V)

(O)

forms of deed of acceptance were authorised in view of the smallness of the amount and in the hope that the instrument would at least touch the conscience of the executant. It has also been mentioned in ^{Paragraph 3 of} G.O. No. 508 dated 7-4-24 that the deed of acceptance in form No. 32 (corresponding to App.R) creates no charge on the property and that there is therefore some risk in accepting the deed in that form. In the same G.O., the Govt. have empowered D.E.Cs to accept deeds of acceptance drawn in Form 32 up to a maximum grant of Rs. 2500. ^{except in special cases when the bonafides of the grantee give room for suspicion.} It is submitted that similar powers may be conferred on the D.P.I in respect of form R of the Grant in Aid Code.

3. A draft order on the lines of G.O. No. 508, dated 7-4-24, is submitted. Before the draft is sent to D.P.I u.o. for remarks, if any, the U.S. (Drafting) may be requested to advise whether it is in order.

Law (Drafting) Department

This case is similar to that in 'D'. Attention is invited to U.S.'s note at pp. 7 & 8 and 8 of 'D'. The draft may be accepted. A slight correction required is indicated in pencil at p. 2 of the draft order.

Submitted for approval

Why raise the limit to Rs 2500? It is against the



(D) (in line 5th below)

(D)

(D)

Drafting 508 17.4.25

Law (Econ) no 965 B-2 27.4.25



provision of the grant-in-aid code.

D.P.I u.o for remarks.

U.O. Reply No. 1628 D (22.D) 3.5.25

If the draft G.O. is issued, the position will be that the D.P.I. can as before dispense with mortgage deeds or deeds of acceptance in the case of responsible persons or associations but that if he considers a bond necessary he must require Form O (or P) or Form Q in the case of grants exceeding Rs. 2500/- and may require these forms in the case of smaller grants, if there is any doubt as to the integrity of the grantee. If there is none, and if the D.P.I. considers a bond necessary, form R will be the form. The draft G.O. professes to invest the D.P.I. with a new power (i.e. the power to accept form R in cases of grants not exceeding Rs. 2500) This does not seem to be a new power at all.

On the principle that the greater power (the power to dispense with any deed) includes the less, (the power to accept a deed of doubtful legal value) it would seem more logical that the D.P.I. should be empowered to accept form R in all cases. Government wish to bring the powers of the D.P.I. in respect of accepting deeds into harmony with the powers of D.E.Cs. There is this important difference in the two cases, however, that the D.P.I. can dispense with a deed altogether while the D.E.C. cannot.

2. Another point requiring elucidation is the effect of form Q, its value as against that

f- 484 (U) 14.7.25

that of forms O and P. If form Q is sufficient, why have forms O and P in the Code at all?

NAA
3/5/25

A. G. 1187B
1/5/25



Law (Ed) Dept

Paragraph 1 of D.P.'s note on p. 3
ante.

In the circumstances explained by the D.P., he may be empowered to accept deeds of acceptance in Form R in all cases. If approved, paragraph 2 of the draft may be amended in this regard.

2. Paragraph 2 of Director's note above.

Form Q is only a deed of acceptance and the Govt.

Solicitor has advised that the form will not give the Govt.

absolute and valid rights as against the lands and buildings concerned or the proceeds of the

same or against the owner of the lands and buildings - paragraph

5 or p. 8 of go. 513 of 16.8.1904. (O)

that form is to be used when the

5 10

the grant is between Rs. 500 and Rs. 1,000 - i.e., in the case of small amounts. Forms O and P, on the other hand, are legally binding and should be used when the grant exceeds Rs. 1,000. Thus Forms O and P are valid instruments to be used in the case of large grant, unlike Form Q which is not valid and which should be used only for grants ranging between Rs. 500 and Rs. 1,000.

3. If the proposal in paragraph 1 above is accepted, the effect of paragraph 2 of the draft (as altered with reference to this) will be that deeds of acceptance in Form R may be accepted in all cases, but that, where there is reason to doubt the bona fides of the grantee, the following will be the procedure:-

Form Q - in cases ^{of grants} not exceeding Rs. 1,000

Form P - in cases exceeding Rs. 1,000 for purchase of buildings

Form O - in cases exceeding Rs. 1,000 for the construction of buildings

or for improvements to them.

4 The case may perhaps
be sent ^{again} to the D.P.I. for perusal
of these notes.

U.O. Reply No. 1628.2/22.7.16.6.25

Returned with thanks after perusal.

Law (Ed)

the case may now be

circulated to M₂ for approval of the

draft order below.

21.6.25

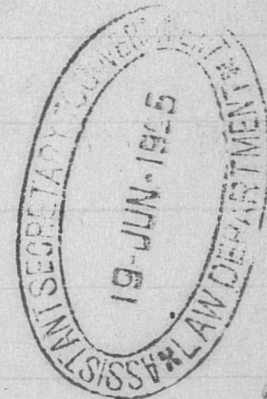
21.6.25

23.6

M₂

(withheld from circ. under
see 7's notes)

Law (En) no 965 B.3
10.6.25



Rule 53(ii) of the Code.
(put up)

* O.P.R. & R. (Mp. 37-45
of the Code)

Rule 50 of the Code

Mp. 37-42 ind

Paragraph 3 of § 5138
16.8.04 (O)

Paragraph 1 of §
ibid (O)

Compare the forms on
Mp. 43 & 45 of the Code.

Paragraph 5 on p. 8 of
§ 5138 16.8.04 (O)

* Rule 1 of chapter II on
p. 5 of § 208 21.2.22 (W)

* Rule 4(ii) of ch. II on
p. 6 of § 208 21.2.22 (W)

Position marked A on
p. 15 of § 5138 7.4.24 (D)

* p. 34 of § 208 21.2.22 (W)

Mp. 1-2 CF

Paragraph 2 of note on p. 2
N.F. & Director's note on
p. 3 N.F.

The Grant-in-Aid Code provides that with reference

to any building grant made to an institution under
private management, the D.P.I. may require the manage-
ment to execute a mortgage of the property or deed of
acceptance in respect of the grant in the forms laid
down in the Appendices of the Code. This discretionary
power vested in the Director is applicable to all
grants sanctioned by him and also ^{by} the Government. The
D.P.I.'s powers of grants are limited to Rs. 2,500, in
respect of each case. Appendices O^(*) and P lay down the
form of regular mortgages in respect of cases exceeding
Rs. 1,000. Appendices Q & R relate to forms of agreement.
Q deals with cases of grants not exceeding Rs. 1,000,
while R deals with cases of grants not exceeding
Rs. 500. There is also a difference between forms
Q & R. R is considered to be less effective than Q
in that it does not even provide for the sale of
property affected by the grant which Q does.

From the legal point of view both these forms are
considered to be little effective.

In applying these provisions to elementary
schools, grants in respect of which are sanctioned
by D.E.Cs, up to Rs. 2,500, it has been laid down that
these councils should insist upon either a mortgage
deed or a deed of acceptance. They have not been
given any power to exempt managements from either
of them. The only discretion that has been given to
the D.E.Cs is that they can, instead of insisting upon
a mortgage deed, and accept the least effective of the
forms prescribed, viz, R (Form 32 as prescribed under
the rules in the Elementary Education Act.) The ques-
tion ~~whether the D.P.I. may not consider the exemption~~
~~of accepting R when the grant is less than Rs. 1,000~~
~~desirable~~ has been raised by the D.P.I. in what cases
he should use form Q and in what cases form R and
incidentally it has been suggested why the discretionary

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power given to the D.E.Cs, to adopt form R ^(Form 32) in all cases coming before them should not be given to him in respect of all grants sanctioned by him and by Govt. At present he can wholly exempt managements from executing any deeds or he must conform to the prescription laid down in the Code of accepting a mortgage deed under certain conditions and of ^a deed of acceptance in others.

The Secretary is not satisfied of the need for insisting upon the execution of a deed of acceptance by a management which is not legally effective. He seems to be of the opinion that, if the status of a management is not such as to justify absolute exemption in its case, the D.P.I should conform to the ~~former~~ provisions of the Code already referred to above. The Director has to deal with now only with secondary school buildings, and there will therefore be few cases which, according to the Code, will ^{be} required to execute deeds in form R ~~or Q~~ in form Q. The only object in prescribing these deeds of acceptance is to secure moral effect on the management. If this discretionary power of enforcing ^{form} R is not given to the D.P.I, there is likely to be a larger number of exemptions. The Director has frequently brought to the notice of Government that some missions find difficulty in executing mortgage deeds in legal form owing to their being registered in foreign countries and not having accredited representatives with legal power in India. In such cases the Director may be driven to the necessity of exempting altogether without even a deed of acceptance.

C.R.
24-6-25

Am I right in thinking that at present the D.P.I

- 1) Can exempt altogether from execution of deeds
- 2) Can permit execution of deeds in Form R in all cases? V.T.F.

5/6

8. 484 of 14.7.05
(U)

A

* (the grants in most cases will be above Rs. 1,000 while these two forms can be used only in cases below Rs. 1,000)

Vide last sentence of paragraph 5 on p. 2 of 8. 513 of 16.8.04 (0)

C.f. for example, last sentence of D.P.I's letter of p. 2 CF (Vide also paragraph 7 on p. 3 of 8. 513 of 16.8.04 (0))

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1.4
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Secretary's note on p. 2 ante.

1) submitted yes - vide 8. 484 of

(U) 14.7.1905.

2) submitted no ^(At present) if the D.P.I.

is not for exempting the management from the execution of any deed, he has to conform to the orders in 8. 513 of 16.8.04 and require deeds in Form O or P where the grant exceeds Rs. 1,000 and in Form Q or R where the grant is below Rs. 1,000.

The proposal in the draft order below is ^{that power may be} ~~to confer power~~ ^{conferred} on the D.P.I. to ~~require~~ ^{permit} the execution of deeds in Form R in all cases.

C.R.
25.6.25 I shall talk to A.B. as soon as I go down.

V.T.F.
26.6



At present the D.P.I. can wholly exempt managements of schools from executing any deeds in respect of building grants or he must insist on the execution of deeds as under : --

Where the grant does not exceed Rs.500 Form R.

Where the grant is between Rs. 500 and Rs. 1000 } Form Q.

Where the grant exceeds Rs. 1000 { Form O or Form P.

The Secretary considers that if the ^(status of the) management of a school is not such as to justify absolute exemption in its case the D.P.I. should ~~insist on the execution of deeds~~ ^{insist on the execution of deeds} but that where the ~~status of the~~ ^{status of the} management ~~are~~ ^{is} not open to question, absolute exemption from execution of any deed may be sanctioned. We may perhaps continue forms Q and R in cases where the grant does not exceed Rs. 1000. If this is approved, the powers of the D.P.I may be fixed as shown below : ---

(1). Absolute exemption may be sanctioned where the ~~status of the~~ ^{status of the} management are not open to question in any manner.

(2). Where they ~~are~~ ^{are} open to question, ~~he~~ ^{he} should insist on the execution of deeds as shown at A above.

2. It is for consideration whether ~~the powers of the D.P.I. in line with those of the D.P.I. & the powers~~ ^{we may not} ~~may not be conferred on the D.E.Cs in respect of building grants sanctioned for elementary schools.~~ ^{be conferred on the D.E.Cs in respect of building grants sanctioned for elementary schools.} The powers which they at present possess and those that may hereafter be conferred on them are compared below :-

Present powers.

1.No power of absolute exemption.

2. Power to accept deeds of acceptance in Form No. 32 in cases where the grant paid does not exceed Rs.2,500-where the bona-

Proposed powers.

(1) Powers of absolute exemption in case where the ~~status of the~~ ^{status of the} management are not open to question.

(2) P.T.O

8. 484 (U)
14.7.05

8. 573 (O)
16.8.04

A

unnecessary
V.T.K

8. 508 (D) in linked file
7.4.24

Present powers.

fides are not open to question.

3. Where the bona-fides give room for suspicion, the fol. procedure should be adopted:-

- (a). Form 32 in cases of grants below Rs. 500-
(b) Form 31 in cases of grants between Rs. 500 and 1,000.
(c). Forms 30 or 29 in cases of grants exceeding Rs. 1,000

Proposed powers.

Where the bona-fides are open to suspicion deeds should be executed as shown in item 3 in col. 1.

(2) Where the bona-fides

are open to suspicion, deeds should be executed as shown in item 3 in col. 1.

3. May a G.O. be drafted on the above lines?

4. Orders are requested on the lined file also.

[The chief point in retaining R & R is that the accounts involved are not large & the expense of upholding & stamp fees may be avoided in that case]

x Disturbed

The concluding portion of the draft order already put up has been suitably altered & the draft is for approval.

22.7.25

V.T.K. 23.7

When received for Fair-copying
When copied
When examined
When signed
When despatched

Date. Initials.

Grant-in-Aid Code.

Building grants + mortgage deeds

and deeds of acceptance - orders passed.

READ AGAIN G.O. No. , dated 192

READ ALSO:-

C. No. 965B From the , No. , dated 192

ORDER.

M i s.

No. 1279 dated 13-7-1925

Rule 53 (ii) of the Grant-in-Aid Code provides that, before a building grant is paid to the management of a school, the owner or the manager of the property may be required to execute a mortgage of the property or a deed of acceptance in respect of the grant. The forms prescribed for the deeds are printed as Appendices O, P, Q & R, to the Code. The forms of agreement in Appendices O & P, provide for mortgage deeds to be drawn up by the management, the former when the grant is for the construction of a building or towards improvements thereto, and the latter when the grant is for the purchase of a building. These forms are meant to be adopted when the amount of the building grant in either case exceeds Rs. 1,000-

8. 513 15.8.04 (0)

The forms in Appendices Q & R provide for deeds of acceptance, the former to be used when the amount of the grant exceeds Rs. 500 but does not exceed Rs. 1,000, and the latter when the grant does not exceed Rs. 500. Deeds drawn up in forms O, P, and Q should be stamped ad valorem as a mortgage and registered. Deeds drawn up in Form R. may be executed on 12 annas stamp paper but do not require registration.

2. In G.O.No. 484 Edl, dated 14-7-1905, the D.P.I. has been granted discretion to dispense with mortgage bonds or deeds of acceptance in the case of responsible persons or associations.

The Govt. are advised that a deed executed in Form R. creates no charge on the property, and that the benefit of the contract evidenced by such a deed can be enforced ^{only} against (with notice and gratuitous transferees) but not as against transferees for value without notice. There

is therefore, strictly speaking, ~~some~~ some risk in accepting a deed of acceptance executed in this form. In practice, however, there ^{may} ~~will~~ be no difficulty in enforcing the terms of the contract, as the sanction of the D.P.I. is necessary to a change ⁱⁿ the management of a school ^{for him to make} and an arrangement ~~can be made~~ under which successive managers shall be given express notice of the contract.

3. Though these deeds of acceptance are not really as effectual as regular

(U)
Subject to certain conditions

(Pohim revised)

	Initials.	Date.
Received in Fair-copying Section.		
Copied	..	
Examined	..	
Signed	..	
Despatched	..	

(Pohim revised)

(O)

13
mortgage deeds the Government, in view of the comparatively small amounts of grants in respect of which these deeds are to be applied, do not consider that ~~their~~ ^{their} use should be discontinued, but are of opinion that they should be restricted, as laid down in G.O.No. 513 Ed. dated 16-8-1904, to cases involving grants not exceeding Rs. 1,000. In other cases where the D.P.I. feels ~~any~~ doubts as to the status and stability of the management, he should insist on the execution of regular mortgage deeds in forms Q or P. as the case may be.

4. The case of building grant to the Sarah Tucker College, Palamcottah, may be disposed of in accordance with the above orders.

DESPATCHED CF

24 JUL 1925

To the Director of Public Instruction (with refce to his letter No. 1628 D/22, dd. 2-4-25) (with pages 4-5 returned)
" Govt. Solicitor.
" A.G.

cur
22.7.25

22.7.25
V.T.K.
23.7

When given for copying
When copied
When examined
When signed

192

READ AGAIN G.O. No. 192 DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT ... A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED OF, BRING MEANT FOR DESPATCH IN ORIGINAL.

N.B.—

- A = Copy in full.
- B = Not to be copied.
- P = Copy abstract only.
- Q = Copy heading only.