

Haryana Relief of Agricultural Indebtedness Act, 1976

18 of 1976

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Haryana Relief of Agricultural Indebtedness Act, 1976

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An Act to provide relief from indebtedness to agricultural labourers, rural artisans, marginal farmers and small farmers. Be it enacted by

the Legislature of the State of Haryana in the Twenty Seventh Year of the Republic of India as follows-

1. Short title and commencement :-

(1) This Act may be called the Haryana Relief of Agricultural Indebtedness Act, 1976.

(2) It extends to the whole of the Union Territory of Delhi.

(3) It shall come into force on such date as the administrator may, by notification in the Delhi Gazette appoint.

2. Definitions :-

In this Act, unless the context otherwise requires-

(a) Administrator means the Administrator of the Union Territory of Delhi appointed by the President under Article 239 of the Constitution.

(aa) "agricultural labourer" means a person who follows any one or more of the following agricultural occupations in the capacity of a labourer on hire or exchange, whether paid in cash or kind or partly in cash and partly in kind-

(i) fanning including cultivation and tillage of soil, etc.;

(ii) dairy farming;

(iii) production, cultivation, growing and harvesting of any horticultural commodity;

(iv) raising of livestock, bees or poultry; and

(v) any practice performed on a farm as incidental to or in conjunction with the farm operation including any forestry or timbering operation and preparation for market and delivery to storage or to market or to carriage for transportation of farm products.

(aaa) "appointed day" means the date appointed under rule under section (3) of section one;

(b) "bank" means-

(i) banking company as defined in the Banking Regulation Act, 1949 (Central Act 19 of 1949);

(ii) the State Bank of India constituted under the State Bank of

India Act, 1955 (Parliament Act 23 of 1955);

(iii) a subsidiary bank, as defined in the State Bank of India (subsidiary Banks) Act, 1959 (Parliament Act 36 of 1959);

(iv) a corresponding new Bank constituted under the Banking Companies (acquisition and transfer of Undertakings) Act, 1970 (Parliament Act 5 of 1970);

(v) any banking institution notified by the Central Government under section 51 of the Banking Regulation Act, 1949 (Central Act 10 of 1949);

(vi) the Agricultural Refinance and Development Corporation constituted under the Agricultural Refinance and Development Corporation Act, 1963 (Parliament Act 10 of 1963);

(vii) any other financial institution notified by the Administrator in the Delhi Gazette as a bank for the purpose of this Act;

(c) "Civil Court" includes

(i) a court exercising jurisdiction under the provincial Insolvency Act, 1920 (Central Act 5 of 1920);

(ii) a Panchayat Adalat constituted under the Delhi Panchayat Raj Act, 1954 (Delhi Act 30 of 1955);

(iii) a court exercising powers under the Provincial Small Cause Courts Act, 1887 (Central Act 9 of 1887);

(iv) "Collector" means the Head Revenue Officer of a District and includes any other Officer appointed under this Act by the State Government, by notification to exercise the powers of a Collector;

(v) "Co-operative society" means a society registered or deemed to be registered under the Co-operative Societies Act, 1972 (Parliament Act 35 of 1972);

(vi) "Debt" includes all liabilities owing to a creditor in cash or kind, secured or unsecured, payable under a decree or order of a civil court of otherwise and subsisting on the appointed day whether due or not due but does not include

(i) a debt due to the Central Government, any State Government, a local authority, a co-operative society or bank;

(ii) a debt to any Government company within the meaning of the

Companies Act, 1956 (Parliament Act 1 of 1956);

(iii) a debt due to the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (Parliament Act 3 of 1956), or other corporations, established under any law for the time being in force;

(iv) any rent due in respect of any property let out to a debtor;

(v) any liability arising out of breach of trust or any tortious liability;

(vi) any liability in respect of wages or remuneration due as salary or otherwise for services rendered;

(vii) any liability in respect of maintenance whether under a decree of civil court or otherwise;

(viii) any debt which represents the price of any goods or property purchased by a debtor;

(a) any advance of money given to the debtor by a person as the price of goods or property to be sold later on;

(b) any advance of wages whether in cash or in kind, or partly in cash or partly in kind, made to a debtor in his insurance by a person in pursuance of a contract of service for a specified period;

Provided that the rate of wages settled is not less than the minimum rate of wages fixed by law;

(c) any sum recoverable as arrears of land revenue;

(d) "debtor" means an agricultural labourer, a marginal farmer, a small farmer or a rural artisan, who owes a debt;

(e) "marginal farmer" means a person who owns land not exceeding one hectare of unirrigated agricultural land and whose principal means of livelihood is income from such land or by manual labour on land not exceeding one hectare of unirrigated agricultural land or from production or repair of traditional tools, implements and other articles or things used for agricultural purposes ancillary thereto or by practising craft by his own labour or by the labour of the members of his family in a rural area;

(f) "rural artisan" means a person who does not own any agricultural land and whose principal means of livelihood is production or repair of traditional tools, implements and other

articles or things used for agriculture or purposes ancillary thereto and also a person who normally earns his livelihood by practising a craft either by his own labour or by the labour of family in a rural area;

(j) "small fanner" means a person who owns land exceeding one hectare but not exceeding two hectares of unirrigated agricultural land and whose principal means of livelihood is income from such land or by manual labour on land exceeding one hectare but not exceeding two hectares of unirrigated agricultural land or from production or repair of traditional tools, implements and other articles or things used for agriculture or purposes ancillary thereto or by practising craft by his own labour or by the labour of the members of his family in a rural area.

Explanation For the purposes of clauses (h) and (j), one hectare of perennially irrigated land shall be equated with two hectares of non-perennial irrigated land and three hectares of unirrigated land.

3. Omitted :-

(Omitted).

4. Interest not to accrue in respect of debt :-

No interest shall accrue, in respect of debt on or after the appointed day of August, 1915.

5. Discharge of debt :-

Notwithstanding anything contained in any enactment for the time being in force or in any contract or other instrument having the force of law,

(a) every debt, together with any interest payable thereon, owed on appointed day by an agricultural labourer, a rural artisan, or marginal farmer whose two thousand and four hundred rupees, shall be deemed to be wholly discharged;

(b) every debt owed to any person by an agricultural labourer, rural artisan or a marginal fanner, whose annual household income exceeds two thousand and four hundred rupees and a small farmer shall be deemed to be wholly discharged if

(i) he, had in discharge of his debt, paid a sum exceeding or equivalent to double the amount of the debt at any time before the appointed day,

(ii) he, in the discharge of his debt, pays after the appointed day

any sum already paid in the discharge of such debt, is equivalent to double amount of the debt;

(c) every property pledged or mortgaged by a debtor whose debt is deemed to be discharged under clause (a) or clause (b), shall stand released in his favour when such debt is deemed to be discharged and the creditor shall, if he is in possession thereof, return the same to the debtor forthwith;

(d) subject to the provisions of clauses (a) and (b), the liability of a debtor to repay the debt, together with any interest payable thereon, shall not exceed twenty per cent of the gross value of his annual household income multiplied by seven and any such liability shall be spread for repayment over a period up to seven years to be reckoned from the date of order of adjudication. No recovery of amount in excess of the debt liability scaled down shall be made and the portion of the debt in excess thereof shall be extinguished.

6. Interest :-

The interest payable in the debt shall be calculated at the rate applicable to debt under the law, custom or contract or at a rate of six per cent per annum whichever is less and credit shall be given for all sums paid or credited first towards outstanding interest and the balance, if any, shall be credited towards repayment of the principal. The amount of principal and the interest outstanding will be considered as the not outstanding debt on the appointed day, for the purpose of scaling down.

7. Appointment of debt settlement officers :-

The State Government, for the purposes of settlement between the debtor and their creditors, appoint debt settlement officers and define the local areas in which they shall exercise jurisdiction.

8. Application for settlement :-

A debtor or any of his creditor may apply within a period of six months from the date of notification under sub-section (2) of section 1, to the debt settlement officer appointed for the area in which a debtor resides or holds any land to effect a settlement between the debtor and his creditors.

9. Verification of application :-

Every application to a debt settlement officer shall be in writing and be signed by the applicant and verified in such a manner as may be prescribed.

10. Particulars to be stated in application :-

(1) Every application presented by a debtor to the debt settlement officer shall contain the following particulars, namely

- (a) the place where he resides or holds land;
- (b) the particulars of all claims against him together with names and residences of his creditors;
- (c) the particulars of all his property, together with a specification of the value of such property and the places or place at which any such property is to be found;
- (d) the particulars of his household income;
- (e) a statement containing full particulars showing that he is a debtor;
- (f) a statement whether he has previously filed an application in respect of the same debt before the debt settlement officer, and if so, with what result.

(2) Every application presented by a creditor shall contain the following particulars namely

- (a) the place where the debtor resides or holds land;
- (b) the amount and particulars of his claim against such debtor;
- (c) a statement containing full particulars of the debtor.

11. Procedure on the receipt of application :-

(1) On receipt of an application under section 8, the debt settlement officer shall pass an order fixing a date and place for hearing the application.

(2) Notice of the order under sub-section (1) shall be sent to creditors by registered post, acknowledgement due at the cost of the applicant, and where the debtor is not the applicant, notice of the order under section (1) shall be sent to him in a similar manner.

12. Notice calling creditors to submit statements of debts :-

(1) On the date fixed, the debt settlement officer shall publish, in such manner as may be prescribed, a notice, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement wherein the creditor shall

show whether he is registered under the Punjab Registration of Money Lenders Act, 1938 (Punjab Act 3 of 1938) as extended to the Union Territory of Delhi.

Provided that, if the debt settlement officer is satisfied that any creditor was, for good and sufficient causes unable to comply with such direction or to produce the documents required under sub-section (1) of section 13 within the period fixed, it may extend the period for the submission of Statement of the debts owed to him or for the production of such documents,

(2) Every debt owed to a single creditor of which no such statement has been submitted to the debt settlement officer in compliance with the provisions of sub-section (1) shall be deemed to be discharged for all occasions against such creditor; and every debt owed to two or more creditors jointly of which such a statement or statements signed by all such creditors or their recognised agents has or have not been so submitted, shall be deemed to be so discharged against such creditors as have failed to submit the said statement but only to the extent of their respective shares in the said debt.

(3) If the creditor or any of the joint creditors fails without sufficient cause to be present in person or by his recognised agent or, with the permission of the debt settlement officer, by legal practitioner at any of the hearings fixed by the debt settlement officer, or fails to produce full particulars and documents as required under sub-section (1) of section 13, the debt due to him or to the joint creditors, as the case may be, shall be deemed for all purposes and all occasions to have been fully discharged.

(4) If any creditor proves to the satisfaction of the debt settlement officer that the notice was not served on him and that he has no knowledge of its publication or that he was unavoidably absent at any of the hearings fixed by the debt settlement officer may revive that debt.

13. Procedure on submission of statements of debts :-

(1) Every creditor submitting in compliance with a notice issued under sub-section (1) of section 2 a statement of the debts owed to him shall furnish along with such statement, full particulars of all such debts, and shall at the same time produce all documents (including entries in books of accounts on which he relies to support his claims together with a true copy of every such document.

Provided that a decree or order of a civil court shall be conclusive evidence as to the amount of the debt to which the decree relates, but the amount may be reduced if it exceeds double the principal loan or has been made up by including simple interest at a rate higher than six per cent per annum.

(2) The debt settlement officer shall after making for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

14. Power of debt settlement officer to adjudicate :-

(1) If a creditor or a debtor, as the case may be challenges the genuineness or enforceability debt included in an application, the debt settlement officer shall adjudicate upon the issue.

(2) Any person aggrieved by a decision of the debt settlement officer under sub-section (1) may appeal wherefrom to the Collector;

Provided that an appeal shall not lie from an order refusing to review or confirming on review a previous order.

(3) The period of limitation for an appeal under this section shall run from the date of the order appealed against and shall be thirty days. The debt settlement officer shall determine in the case of each debt shown in the application made by the debtor or his creditor under section 8 or in the statement furnished by the creditor under section 13, other than a debt declared non-genuine or enforceable, the principal amount originally advanced, the amount paid by the debtor towards the principal or interest or both and the interest at the rate of six per cent per annum from the date the principal amount was advanced to the appointed day, however, that in calculating the interest, the payments, made by the debtor from time to time shall first be adjusted against the interest due on the date of payment and then towards the principal and on wards interest shall be calculated on the principal amount thus remaining outstanding.

(4) Where the debtor is found to have repaid to the creditor an amount equal to, or exceeding, double the principal amount, or the debtor on being apprised of such findings pays an amount which makes the total repayment equal to double the amount of principal,

the debt settlement officer shall declare the debt as fully discharged and thereupon the provisions of clause (c) of section 5 shall apply to the debt. In case the amount repaid to the creditor is found to be in excess of double the principal, the debt settlement officer shall order the refund of the same to the debtor by the creditor.

(5) The debt settlement officer shall estimate the annual household income of a debtor and determine, for the purposes of section 5, his liability and capacity to repay the debts outstanding against him.

(6) In the cases not falling under sub-section (5), the debt settlement officer shall, keeping in view the outstanding amount of principal and interest as determined under subsection (4), and the paying capacity of the debtor determined under sub-section (6), as the case may be, order the payment of the amount in yearly equal instalments not exceeding seven.

Provided that in no case the debtor shall be required to pay towards the principal and the interest any amount that exceeds double the principal;

Provided further that where the amount of yearly instalment in respect of all the debts exceeds the paying capacity of the debtor, the debts shall be proportionately reduced so as to make the yearly instalment equal to the paying capacity and on payment of the instalments so determined, the debt or debts shall stand fully discharged.

15. Consequences of non-registration under Punjab Act 3 of 1938 :-

In recording findings under section 14, the debt settlement officer may, where a creditor is not registered in accordance with the provisions of the Punjab Registration of Money Lenders Act, 1938 (Punjab Act 3 of 1938) as extended to the Union Territory of Delhi disallow the whole of his claim and declare the debt as fully discharged and where the creditor is found to have failed to comply with the provisions of the said Act with regard to maintenance and publication of accounts, disallow whole of the interest on the principal amount.

16. Power of debt settlement officer to require attendance of persons and production of documents and to receive evidence :-

A debt settlement officer appointed under section 9 may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on civil courts by the Code of Civil Procedure, 1908 (Central Act 5 of 1908), and every proceeding before the debt settlement officer shall be deemed to be a judicial proceeding.

17. Dismissal of application in default :-

If in the opinion of the debt settlement officer any applicant fails to conduct his application with the diligence, the debt settlement officer may dismiss the application at any stage.

18. Decision of debt settlement officer to be final :-

If any question arises in any proceedings under this Act whether a loan or liability is a debt or not, or whether a person is a debtor or not, the decision of the debt into question in any court.

19. No civil court shall entertain :-

(a) any suit, appeal or application for revision

(i) to question the validity of any procedure or the legality of any order issued under this Act; or

(ii) to recover any debt which has been deemed to have been duly discharged under the provisions of this Act.

(b) any application to execute a decree passed by a civil court against a debtor;

(c) Any suit for declaration, or any suit or application for injunction affecting any proceedings under this Act before a debt settlement officer.

20. . :-

Any person considering himself aggrieved by an order of the debt settlement officer and who, from the discovery of any new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when such order was made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the order made against him, may apply for a review of such order to the debt settlement officer who may review the order and pass such orders as he thinks fit:

Provided that he shall not under this section pass an order reversing or modifying any order affecting any person interested without giving such person an opportunity of being heard:

Provided further that no application for review shall be entertained if presented more than twelve months after the date of the order sought to be reviewed.

21. Bar of appeal on revision :-

Save as otherwise expressly provided in this Act, no appeal or revision shall lie against any order passed by a debt settlement officer.

22. Appearance of party before debt settlement officer by agent or by legal practitioner :-

In any proceedings under this Act, any party may be represented by an agent authorised in writing or with the permission of the debt settlement officer by a legal practitioner.

23. Application of provision of Parliament Act 36 of 1963 :-

The provisions of the Limitation Act, 1963 (Parliament Act 36 of 1963), shall apply to an application made by a creditor under section 8 as if the application were a plaint in a suit for recovery of the loan.

24. Recovery of sums due :-

The order of the Debt Settlement Officer passed under this Act shall be executed by the civil court having jurisdiction in the area as if it were a decree or order of that court.

25. Power to make rules :-

(1) The State Government may, by notification in the Delhi Gazette, 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.

(2) The rules made under sub-section (1) shall be subject to previous publication in the Delhi Gazette.

(3) (Omitted)

26. . :-

(1) Section 4 of the Punjab Registration of Money Lenders Act, 1938 (Punjab Act 3 of 1938) as extended to the Union Territory of Delhi shall be re-numbered as sub-section (1) of the section and

after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely

"(2) No money lender shall carry on the business of advancing loans unless he gets himself registered under sub-section (1).

(3) Any money lender who contravenes the provisions of sub-section (2) shall be liable, on conviction to a fine not exceeding one thousand rupees for the first offence and two thousand rupees for every subsequent offence."

27. . :-

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1. Section 27 Omitted in its application to Delhi.