

## **GUJARAT RURAL DEBTORS RELIEF ACT, 1976**

**35 of 1976**

[ ]

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### **SCHEDULE 1 :- THE SCHEDULE**

# **GUJARAT RURAL DEBTORS RELIEF ACT, 1976**

**35 of 1976**

**[ ]**

In exercise of the powers conferred by section 3 of the Gujarat State Legislature (Delegation of Powers) Act, 1976 (44 of 1976), the President is pleased to enact as follows :-

## **1. Short title, extent and commencement :-**

(1) This Act may be called the Gujarat Rural Debtors, Relief Act, 1976.

(2) It extend to the whole of the State of Gujarat

(3) It shall come into force on such date as the State Government may, by notification in the Gujarat Government Gazette, appoint.  
Reason for the enactment

The Government of Gujarat proposed to inplement the liquidation of rural indebtedness in stages by imposing a moratorium on recovery of dues from the landless labourers, small farmers, marginal farmers and rural artisans, and by undertaking legislation for such liquidation before the expiry of the period of moratorium. There is a moratorium on recovery of debts of small farmers, marginal farmers, rural artisans and agricultural labourers up to 31st October 1977, under the Gujarat Rural Debtors' (Temporary Relief) Act, 1976.

The Government of Gujarat have now decided to give permanent relief by way of liquidation of debts of marginal farmers, agricultural labourers and such rural artisans whose annual household income does not exceed Rs. 2,400 and scaling down of debts of the small farmers, and such rural artisans whose annual household income exceeds Rs. 2,400 but does not exceed Rs. 4,800. In the case of a person who is a member of a Scheduled Tribe the holding limit for the purpose of identification as a small/marginal farmer has been kept at twice the limit prescribed for others.

The Bill seeks to achieve the above object. The President issued a Proclamation on the 12th March, 1976 under article 356 of the Constitution, in relation to the State of Gujarat declaring inter alia that the powers of legislature of the State shall be exercised by or

under the authority of Parliament. Parliament has, under article 356(1)(a) of the Constitution, now conferred on the President, the powers of the legislature of the state of Gujarat to make laws vide the Gujarat State Legislature (Delegation of Powers) Act, 1976 (44 of 1976). In view of the urgency of the matter it is not practicable to consult the Consultative Committee of Parliament on Gujarat Legislation. The measure is accordingly being enacted without reference to the Consultative Committee.

## **2. Definitions :-**

In this Act, unless the context otherwise requires,-

(a) "agriculture" includes horticulture, the raising of crops, grass or garden produce, the use by an agriculturist of the land by him or part thereof, for the grazing of his cattle, the use of any land, whether or not an appendage, to rice or paddy land, for the purpose of rabmanure, dairy farming poultry farming, breeding of live stock, and the cutting of wood;

(b) "appointed day" means the date on which this Act comes into force;

(c) "debt" means any liability (inclusive of interest) which is due from a debtor in cash or kind, whether secured or unsecured, or whether payable under a decree or order of any Civil Court or otherwise and subsisting on and legally recoverable on or after the appointed day;

(d) "debtor" means a marginal farmer, a small farmer, rural labourer or a rural artisan, who on the appointed day is in debt;

(e) "farmer" means a person who is engaged in agriculture;

(f) "land" means land which is used, or capable of being used for the purpose of agriculture and includes the sites of farms buildings appurtenant to such land;

(g) "marginal farmer" means a persons,-

(i) who hold lands in any of the villages specified in column 3 of the Scheduled not exceeding,-

(a) the extent of land specified against such village in column 4 of the Schedule, if such person does not belong to Scheduled Tribe;

(b) twice the extent of land so specified, if such person belongs to a Scheduled Tribe, and

(ii) who earns his livelihood principally by cultivating such land;

Explanation.-1. Where a person holds irrigated land, whether exclusively or along with other non-irrigated land, the extent of land deemed to be held by him for the purpose of this clause so far as such irrigated land held by him is concerned shall be twice the extent of such irrigated land.

Explanation.-2. Where a person holds land in different villages against which different extents of land are specified in column 4 of the extent of land which he shall be deemed to hold for the purpose of this clause shall, regard being also had to the provisions of Explanation I wherever it is applicable, be equal to the sum of-

(i) the extent of land held by him in the village in which he ordinarily resides, and

(ii) such extent of land as bears to the extent of the land held by him in the village (or each of the villages, as the case may be) other than the village in which he ordinarily resides the same ratio as the extent of the land specified in column 4 of the Schedule against the village in which he resides bears to the extent of land specified in the said column 4 against the village (or each of the villages, as the case may be), in which he does not reside.

(h) "member of a family" in relation to a rural artisan, means father, mother, spouse, brother, un-married dependent sister, divorced dependent sister, son, son's wife, un-married daughter, divorced dependent daughter, son's son, son's son's un-married daughter, son's son's divorced dependent daughter, and includes any relation residing with and actually dependent for his maintenance on, the rural artisan;

(i) "owner" in relation to land, includes a person holding the land as occupant or land holder as defined in the Bombay Land Revenue Code, 1879, (Bom. V of 1879), as in force in the State of Gujarat;

(j) "prescribed" means prescribed by rules made under this Act;

(k) "rural area" means an area, which for the time being, is not within the limits-

(i) a city constituted under section 3 of the Bombay Provincial Municipal Corporations Act, 1949, (Bom. 59 of 1949), as in force in the State of Gujarat;

(ii) a municipal borough, or a notified area constituted, or deemed to be constituted, under the Gujarat Municipalities Act, 1963 (Guj. 34 of 1964);

(iii) a cantonment declared as such under the Cantonments Act, 1924 (2 of 1924);

(l) "rural artisan" means a person who, being resident in a rural area, earns his livelihood principally by practising any craft in such area by his own labour or by the labour of the members of his family, and

(i) who either does not hold any land, or

(ii) who holds land to the extent specified in paragraph (a) or as the case may be, paragraph (b), whichever is applicable, of sub-clause (i) of clause (g) but who does not earn his livelihood principally by cultivating such land;

(m) "rural labourer" means a person who, being resident in a rural area, earns his livelihood principally by manual labour from any of the following occupations, but does not hold any land for any such occupations, namely :-

(i) farming, including cultivation or tillage of soil or horticultural operations,

(ii) cutting of wood,

(iii) dairy farming,

(iv) poultry farming,

(v) breeding of live stock,

(vi) any operation performed on an farm as incidental to preparation, transport, delivery or storage, for marketing of any of the products of any of the occupations mentioned in sub-clauses (i), (ii), (iii), (iv) and (v);

(n) "Schedule" means the Schedule appended to this Act;

(o) "Scheduled Tribe" means such tribe or tribal community or part of, or group within, such tribal or tribal community as is deemed to be a Scheduled Tribe in relation to the State of Gujarat under article 342 of the Constitution;

(p) "small farmer" means a person-

(i) who holds land in any of the villages specified in column 3 of the Schedule not exceeding,-

(a) the extent of land specified against such village in column 5 of the Schedule, if such person does not belong to a Scheduled Tribe.

(b) twice the extent of land so specified, if such person belongs to a Scheduled Tribe; and

(ii) who earns his livelihood principally by cultivating such land; Explanation 1.-Where a person holds irrigated land, whether exclusively or along with other non-irrigated land, the extent of land deemed to be held by him for the purpose of this clause so far as such irrigated land held by him is concerned shall be considered to be twice the extent of such irrigated land. Explanation 2.-Where a person holds land in different villages against which different extents of land are specified in column 5 of the Schedule, the extent of land which he shall be deemed to hold for the purpose of this clause shall regard being also had to the provisions of Explanation 1 wherever it is applicable, be equal to the sum of-

(i) the extent of land held by him in the village in which he ordinarily resides, and

(ii) such extent of land as bears to the extent of the land held by him in the village (or each of the villages, as the case may be) other than the village in which he ordinarily resides the same ratio as the extent of the land specified in column 5 of the Schedule against the village in which he resides bears to the extent of land specified in the said column 5 against the village (or each of the villages, as the case may be) in which he does not reside.

(q) "to hold land", with its grammatical variations and cognate expressions, means to be lawfully in actual possession of land, whether as owner or as tenant (including a Government lessee) or as crop sharer;

(r) "village" shall have the meaning assigned to it in the Bombay Land Revenue Code, 1879 (Bom. V of 1879), as in force in the State of Gujarat.

### **3. Discharge or reduction of debt :-**

(1) Save as otherwise expressly provided in this Act and on and from the appointed day,-

(a) every debt outstanding against a debtor who is a marginal farmer, or rural labourer, or who is a rural artisan whose income does not exceed rupees 2,400 per year, shall be deemed to be wholly discharged.

(b) every debt outstanding against a debtor who is a small farmer, or who is rural artisan whose income exceeds rupees 2,400 per year but does not exceed rupees 4,800 per year, shall-

(i) in a case where any amount equal to or exceeding twice the amount of the principal has already been paid by or recovered from, such debtor before the appointed day, be deemed to wholly discharged;

(ii) in any other case, be deemed to be reduced to one-half of the recognised debt: Provided that the amount which remains to be paid by the debtor shall not exceed twice the amount of the principal. Explanation!.-For the purpose of this sub-section as well as sub-section

(3) of section 8, "income per year", in relation to a rural artisan, shall mean the average annual income of such artisan for the three years immediately preceding the appointed day. Explanation 2.-For the purpose of clause (b), "recognised debt", in relation to any debtor, means the amount of the principal together with the amount of simple interest thereon at the rate of six percent per annum or the rate stipulated between the parties, whichever is less, calculated as outstanding on the appointed day, after allowing deductions of all sums paid from time to time towards the repayment of the principal or interest, as the case may be.

(2) Notwithstanding anything contained in the foregoing provisions, in no case shall a debtor be liable to pay to his creditor or creditors under sub-clause (ii) of clause (b) of sub-section (1) an amount exceeding rupees 1,400 in the aggregate :

Provided that where the amount payable by the debtor to more than one creditor is so reduced to rupees 1,400, the amount payable to each one of the creditors shall be determined on a Pro rata basis having regard to the amount or amounts of debts payable to each one of them, subject to the overall limit of rupees 1,400.

**4. Right of debtor to refund of amount paid in excess of twice the principal before the appointed day :-**

(1) Where in respect of any debt, any amount exceeding twice the amount of the principal has been paid by, or has been recovered from, the debtor before the appointed day, such debtor shall be entitled to a refund of the amount so paid in excess of twice the amount of principal from the creditor and the creditor shall, within a period of two months from the appointed day, refund to the debtor the amount so paid in excess by him.

(2) Where a creditor fails to refund, within the period specified in sub-section (1), to a debtor the amount to which the debtor may be entitled under that sub-section, the debtor may, on the expiry of such period, make an application in writing to the debt settlement officer having jurisdiction at the place where such debtor ordinarily resides for making an order directing the creditor to refund to the debtor such amount.

(3) An application under sub-section (2) shall be made in prescribed form and within prescribed period and shall contain the prescribed particulars.

(4) On receipt of an application from a debtor under sub-section (2), the debt settlement officer, shall after making such inquiry as he thinks fit and after giving to the creditor concerned an opportunity of being heard make an order granting such relief to the debtor as he may appear to be entitled to, or make an order rejecting the application of the debtor, as the case may be.

(5) The order of the debt settlement officer under this section granting refund of an amount to a debtor shall be executed by the Civil Court having jurisdiction in the area in which the debtor resides as if such order were a decree or order of that Court.

## **5. Appointment of debt settlement officer :-**

The State Government shall, for the purpose of settlement of debts in accordance with the provisions of this Act, by notification in the Gujarat Government Gazette, appoint such number of persons, as it thinks fit, as debt settlement officers and define the local limits of the areas in which they shall exercise their jurisdiction.

## **6. Duty of debtors and creditors to furnish particulars of debt, etc. to local authority :-**

(1) Every debtor shall, within such period as may be prescribed furnish to the local authority within whose jurisdiction he ordinarily resides, a true statement in respect of every debt due by him on



the appointed day to his creditors, namely:-

- (i) full particulars of the debt;
- (ii) the name and residence of the creditor and if there are joint creditors, the names and residences of all joint creditors;
- (iii) The place where the Creditors resides;
- (iv) particulars showing that he is a debtor and also showing whether he is a marginal farmer, small farmer, rural artisan or rural labourer;
- (v) in the case of a debtor who is a rural artisan, the amount of his income per year;
- (vi) such other particulars as may be prescribed.

(2) Any of the creditors of a debtor may also furnish, within the period prescribed under sub-section (1), to the local authority within whose jurisdiction the debtor ordinarily resides a true statement in writing in prescribed form containing the following particulars in respect of the debt or debts due to him by the debtor, namely:-

- (i) full particulars of the debtor,
- (ii) the name and residence of the debtor,
- (iii) the place where the creditor resides,
- (iv) particulars showing whether the debtor is a marginal farmer, small farmer, rural artisan, or rural labourer,
- (v) such other particulars as may be prescribed.

Explanation 1.-For the purpose of this section, "local authority" means,-

(a) in the case of a debtor who ordinarily resides within the jurisdiction of a gram panchayat nagar panchayat, borough municipality or a municipal corporation, as the case may be, within whose jurisdiction he resides.

Explanation 2.-If a debtor does not ordinarily reside in any place within the jurisdiction of any local authority but holds land in such place/, he shall be deemed to reside as such place

**7. Preparation and publication of statement of debts, etc. by local authority :-**

(1) As soon as may be after the expiry of the period prescribed under sub-section (1) of section 6, the authorised officer of the local authority concerned shall, on the basis of the statements received under section 6, prepare or cause to be prepared a statement in prescribed form showing therein,-

(i) the names and residences of all debtors and creditors from whom statements under section 6 have been received;

(ii) the description of the debtor as to whether he is a marginal farmer, small farmer, rural artisan or rural labourer;

(iii) in the case of a debtor who is a rural artisan, the amount of his income per year;

(iv) the particulars of all debts due from such debtor to their creditors;

(v) such other particulars as may be prescribed.

(2) As soon as may be after the statement under sub-section (1) is prepared, the authorised officer of the local authority shall publish it in the prescribed manner, together with a public notice in the prescribed form calling upon all debtors and creditors mentioned in the statement, who may have any dispute to raise against any of the particulars in the statement to make an application to the debt settlement officer having jurisdiction, within such period after the date of publication of the statements as may be prescribed, challenging the correctness of such particulars.

(3) A copy of such statement authenticated by the authorised officer shall be forwarded to the debt settlement officer appointed under section 5 for the area under the jurisdiction of the local authority concerned.

Explanation.-In this section, "authorised Officer of the local authority" means,-

(a) in the case of a local authority which is a gram panchayat or a nagar panchayat, the Secretary of the panchayat;

(b) in the case of a local authority which is a municipality, the Chief Officer of the municipality;

(c) in the case of a local authority which is a municipal corporation, the municipal Secretary of the Corporation;

(d) in the case of any other local authority, such officer as may be prescribed.

**8. Application by debtor or creditor for inquiry and power of debt settlement officer to inquire :-**

(1) Any debtor or creditor who has any dispute to raise against any of the particulars mentioned in the statement published under sub-section (2) of section 7 may, within the period specified in the notice published under that sub-section make an application in writing to the debt settlement officer having jurisdiction in the area in which the debtor concerned ordinarily resides, stating the grounds of his dispute against the particulars.

(2) On receipt of an application under sub-section (1), the debt settlement officer shall serve a notice in such form and in such manner as may be prescribed upon the other party, requiring him to be present before the debt settlement officer for the purpose of being heard in connection with such application on a date specified in the notice and on all subsequent dates to which the hearing of the application may from time to time be adjourned by the debt settlement officer.

(3) After having satisfied that the notice under sub-section (2) has been duly served on the other party, the debt settlement officer shall after calling for such further information or particulars in relation to the debt in question, if necessary, and after making such inquiry and following such procedure, subject to any rules made in this behalf by the State Government, as in his opinion, the circumstances of the case seem to require, pass,-

(i) in a case in which he is satisfied that the debtor is a marginal farmer or a rural labourer or is rural artisan whose income does not exceed rupees 2,400 per year, an order discharging the debt completely and grant to the debtor a certificate of discharge from the debt in the prescribed form; and on the grant of such certificate to a debtor in respect of a debt, such debt shall not be recoverable from such debtor;

(ii) in a case in which the debtor is a small farmer or is a rural artisan whose income exceeds rupees 2,400 per year but does not exceed rupees 4,800 per year, an order-

(a) discharging the debt completely if any amount equal to or exceeding twice the amount of the principal has already been paid by or recovered from, such debtor before the appointed day and grant to the debtor a certificate of discharge from the debt in the prescribed form, and on the grant of such certificate to such debtor in respect of a debt, such debt, shall not be recoverable from him;

(b) determining, in a case not falling under sub-clause (a), the amount of the recognised debt as defined in Explanation 2 to sub-section (1) of section 3, and reducing the debt in accordance with the provisions of sub-clause (ii) of clause (b) of sub-section (1), and sub-section (2) of section 3 and the amount to which such debt is reduced shall thereupon be the amounts due from the debtor in respect of the debt or debts due from the debtor the portion of the debt or debts in excess of such amount shall be deemed to have been discharged.

(4) If no application under sub-section (1) is recovered by the debt settlement officer from any debtor or creditor within the period referred to in sub-section (1), the debt settlement officer shall, on the basis of the particulars shown in the statement prepared and published under section 7, and if necessary, after making such inquiry as he deems fit, pass an order under clause (i), or under clause (ii), of section (3) as the facts and nature of the case may require; and on the passing of such order the consequences mentioned in clause (i), or, as the case may be, clause (ii) of sub-section (3) shall follow.

(5) Any order made by a debt settlement officer under this section shall subject to the decision in appeal, if any, under section 13, be final and shall not be called in any Court.

## **9. Payment of debt :-**

(1) The amount of debt as reduced under sub-clause (ii) of sub-section (3) of section 8 in the case of any debt or shall be paid by the debtor to the creditor, without any interest, in ten equal annual instalments:

Provided that the first instalment shall be payable on such date as the debt settlement officer may specify in the order passed under sub-clause (b) of clause (ii) of sub-section (3) of section 8.

(2) Subject to the provisions of sub-section (1), the order of the debt settlement officer passed under sub-clause (b) clause (ii) of

sub-section (3) of section 8 shall be executed by the Civil Court having jurisdiction in the area in which the debtor resides as if it were a decree or order of that Court.

**10. Postponment of payment of instalment in case of remissions, etc :-**

(1) Whenever for any cause the payment of one-half or more of the land revenue payable to the State Government is suspended or remitted, the payment of the whole of the instalment due for that year and full amount of the instalment due for each subsequent year under section 9, shall be postponed for one year.

(2) Whenever for any cause the payment of any portion less than one-half of the land revenue payable to State Government is suspended or remitted, one-half of the instalment for that year and full amount of the instalment due for each subsequent year under section 9, shall be postponed for one year.

**11. Bar of Civil Suits and proceedings in Courts :-**

(1) No Civil or Revenue Court shall entertain-

(a) any suit, appeal, or application for revision.-

(i) to recover any debt to which the provisions of this Act apply;

(ii) to question the validity of any procedure or the legality of any order made by a debt settlement officer or an Appellate officer under this Act;

(b) any application to execute a decree passed by a Civil Court against a debtor;

(2) Any suit, appeal, application for revision against a decree or application to execute a decree pending before any such Court on the appointed day shall abate:

Provided that if any such suit, appeal or application is pending jointly against such debtor and other person who is not a debtor, nothing in sub-section (2) shall affect the continuance of such suit or application or appeal or revision application in so far as it relates to such other person.

(3) On the appointed day, every debtor undergoing detention in a civil prison in execution of any decree passed by a Civil Court in respect of his debt, shall be released.

**12. Decisions as to status of a debtor or nature of liability, etc :-**

If a question arises in any proceedings under this Act, as to-

- (a) whether a person is a debtor;
- (b) whether a debtor is a marginal farmer, small farmer, rural artisan, or rural labourer;
- (c) whether the income of a rural artisan exceeds or does not exceed rupees 2,400 per year or as the case may be, rupees 4,800 per year;
- (d) whether and liability is a debt or not, the debt settlement officer shall decide such question and his decision shall be final and shall not be called in question in any court.

(2) The Appellate Officer may, after following such procedure as may be prescribed and after giving the parties an opportunity of being heard, either confirm or modify the decision or order made by the debt settlement officer or direct the debt settlement officer to take such action as the Appellate Officer think fit.

(3) An order passed in appeal by an appellate Officer under this section shall be final.

**14. Prohibition against disposal of pledged property :-**

(1) No creditor shall, after the appointed day, damage, destroy or tamper with any property pledged or mortgaged with him by a debtor or any document connected therewith, or part with, or deal with, the same except as provided in sub-section (2).

(2) Where a certificate of discharge of any debt is granted to a debtor or an order reducing his debt is made under section 8, every property pledged or mortgaged by such debtor as a security of such debt shall stand released in favour of such debt or and the creditor shall forthwith return such property to the debtor.

**15. Power of debt settlement officer to enforce delivery of possession of property of debtor :-**

(1) Where the creditor fails to return the property to the debtor as required by sub-section (2) of section 14 and the debtor is opposed or impeded in taking possession of the property, the debtor may apply to the debt settlement officer having Jurisdiction in the area in which such property is situated or held and on receipt of such

application from a debtor, the debt settlement officer shall, if he is satisfied that the application is entitled to obtain delivery of possession of the property in question, take or cause to be taken, such steps for securing the delivery of possession of the property to the debtor, and may, for such purpose, take such assistance as he considers necessary, or use, or cause to be used, such force as may be considered reasonably necessary.

(2) Action under sub-section (1) shall be without prejudice to and punishment to which the creditor may be liable under section 17.

**16. Creditor required to pay value of pledged or mortgaged property in certain cases :-**

(1) If the possession of property pledged or mortgaged by a debtor cannot for any reason be delivered to him, the creditor shall pay to the debtor such value of the property, as the debt settlement officer may fix.

(2) The debt settlement officer may, on fixing the value of any property under sub-section (1), grant to the debtor a certificate for the recovery of the amount stated t herein to be due as arrears.

(3) If the creditor fails to pay such value to the debtor, it shall be recoverable from him as an arrears of land revenue, and on recovery thereof, it shall be paid to the debtor.

(4) For the purpose of such recovered under sub-section (3), the certificate granted to the debtor under sub-section (2) shall be final and conclusive proof of the arrears stated to be due ther+ein.

**17. Offences :-**

Whoever,-

(a) intentionally makes any false statement or supplies false information or particulars to a local authority, debt settlement officer or an Appellate Officer in any proceeding under this Act, or

(b) intentionally produces before a debt settlement officer or an Appellate Officer any false document, or

(c) being a creditor, knowingly takes recourse, for the purpose of recovering debt from his debtor, to a procedure in contravention of the provision of this Act, or

(d) contravention the provisions of section 14, or

(e) abates any of the acts as aforesaid, shall on conviction, be liable to be punished with imprisonment for a term which may extend to one year or to a fine which may extend to one thousand rupees or with both.

**18. (a) proof of facts by affidavits; :-**

In making inquiries under this Act, a debt settlement officer shall have the same powers as are vested in courts in respect of the following matters under the Code of Civil Procedure, 1908 (5 of 1908), in trying a suit, namely:-

(b) summoning and enforcing the attendance of any person and examining him on oath;

(c) compelling the production of books of accounts and other documents.

**19. Protection of action taken in good faith :-**

No suit, prosecution or other legal proceedings shall be against any debt settlement officer, Appellate Officer or any other officer or employee of the State Government or of a local authority; for anything which is in good faith done, or intended to be done in pursuance of this Act or rules made hereunder,

**20. Inquiries and proceedings to be judicial proceedings :-**

All inquiries and proceedings before debt settlement officer and Appellate Officer shall be deemed to be judicial proceedings within the meaning of sections 193, 210 and 228 of the Indian Penal Code (45 of 1860).

**21. Powers of entry, search and seizure :-**

(1) For enforcing the provision of this Act, a debt settlement officer may enter and search any place without any warrant where such officer has reason to believe that any document evidencing transactions relating to a loan given to any debtor is kept or concealed, and may seize such documents and detain the same in his custody for such period as he thinks fit.

(2) Except as provided in sub-section (1), the other provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall, so far as may be applicable apply to such search or seizure as they apply to any search or seizure made under the provisions of the said Code.

**22. Pleaders etc., excluded from appearance :-**

In any proceeding under this Act, any party may be represented by



an agent authorised in writing or with the permission of the debt settlement officer, or as the case may be, the Appellate Officer, by a legal practitioner.

**23. Act to override other laws :-**

The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force, or in any contract, or instrument having force by virtue of any such law and notwithstanding any custom or usage to the contrary.

**24. Declaration that Act gives effect to certain directive principles :-**

It is hereby declared that the provisions of this Act are for giving effect to the policy of the State towards securing the principles specified in article 46 of the Constitution.

**25. Application of Act to debts in kinds :-**

(1) Where any difficulty arises in applying the provision of this Act, relating to settlement of debts to a debt in kind, such provisions may be applied to such debt after converting the debt in terms of its market value on the appointed day.

(2) The decision of the debt settlement officer as to the market value of a debt for the purpose of sub-section (1) shall be final and shall not be called in question in any court.

**26. Offences by companies :-**

Where an offence under this Act has been committed by company, every person who, at the time the offence/ was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any

director, manager secretary or other officer of the company, such director, manager, secretary or other officer of the company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-For the purposes of this section,.-

(a) "company" means any body corporate and includes a firm or other association of individuals, and

(b) "director" in relation to firm means a partner in the firm.

**27. Exempted debts :-**

Nothing in this Act shall affect the debts and other liabilities of any debtor falling under any of the following matters, namely: -

(a) debts due to any Government, including amount due by way of tax, cess or fee;

(b) debts due to any local authority including amount due by way of tax, cess or fee;

(c) debts due to any co-operative society registered or deemed to be registered under the Gujarat Co-operative Societies Act, 1961, (Guj. X of 1962);

(d) debts due to the Life Insurance Corporation of India;

(e) debts due to-

(i) a banking company as defined in the Banking Regulation Act 1949. (10 of 1949);

(ii) the State Bank of India constituted under the State Bank of India Act 1955 (23 of 1955);

(iii) subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);

(iv) a corresponding new Bank constituted under the Banking Companies (Acquisition and Transfer of undertakings) Act, 1970 (5 of 1970);

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

(vi) any other banking, financial or other institution which the State Government may, by notification in the Official Gazette, specify in

this behalf;

(f) any sum recoverable by way of arrears of land revenue;

(g) any rent or compensation due from a debtor in respect of any property;

(h) any sum due from a debtor-

(i) by way of price for goods, essential for the maintenance of the debtor and his wife, children and any other dependent residing with him, and

(ii) by way of charges for supply of electricity, water or such other essential services;

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

(j) any liability in respect of maintenance whether under a decree of a Court or otherwise;

(k) any amount due under a hire purchase agreement.

## **28. Power to make rules :-**

(1) The State Government may, by notification in the Gujarat Government Gazette make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of foregoing power such rules may provide for all or any of the following matters namely:-

(a) the form in which, and the period within which, an application may be made under sub-section (3) of section 4 and the particulars which such application shall contain;

(b) the period within which, and the form in which a debtor may furnish the statement under sub-section 6;

(c) the particulars to be prescribed for the purposes of clause (vi) of sub-section (1) and clause (v) of section (2) of section 6;

(d) the form in which a creditor shall furnish the statement under sub-section (1) of section 7;

(e) the particulars to be prescribed for the purpose of clause (v) of sub-section (1) of section 7;

- (f) the manner and the form in which statement is to be published together with a public notice and period within which application shall be made under sub-section (2) of section 7;
- (g) the form and manner in which notice under sub-section (2) of section 8 shall be served upon a debtor or a creditor;
- (h) the inquiry to be made and the procedure to be followed under sub-section (3) of section 8;
- (i) the form in which a certificate of discharge shall be granted by the debt settlement officer under clause (i) and sub-clause (a) of clause (ii) of sub-section (3) of section 8;
- (j) the manner in which, the time within which and the fee on payment of which, an appeal shall be made under sub-section (1) of sec. 13;
- (k) the procedure to be followed by an Appellate Officer under sub-section (2) of section 13;
- (l) any other matter which is to be, or may be, prescribed under this Act.

(3) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid, or the session immediately following.

(5) Any rescission or modification so made by the Legislature shall be published in the Official Gazette and shall thereupon take effect.]

## **29. Repeal of Guj. 15 of 1976 :-**

The Gujarat Rural Debtor's (Temporary Relief) Act, 1976 is hereby repealed and the provisions of section 7 of the Bombay General Clauses Act, 1904 (Bom. 1 of 1904) shall apply to such repeal, as if this Act were a Gujarat Act.

## **SCHEDULE 1**

### **THE SCHEDULE**

