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## **Bombay Agricultural Debtors Relief Rules, 1947**

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## **Bombay Agricultural Debtors Relief Rules, 1947**

Bombay Agricultural Debtors Relief Rules, 1947

### **1. Short title :-**

These rules may be called the Bombay Agricultural Debtors Relief Rules, 1947.

### **2. Definitions :-**

In these rules, unless there is anything repugnant in the subject or context,-

- (i) "Act" means the Bombay Agricultural Debtors' Relief Act, 1947;

- (ii) "Code" means the Code of Civil procedure, 1908:
- (iii) "Form" means a form appended to these rules ;
- (iv) "Government" means the Government of Bombay;
- (v) "Section " means a section of the Act;
- (vi) Words and expressions used in the Act and not defined in these rules shall have the meanings assigned to them in the Act.

**2A. Financing of crops for other purposes :-**

The other purposes, for which loans may be advanced for the " financing of crops " within the meaning of clause (6) of section 2, shall be-

- (i) Labour charges;
- (ii) Transport charges;
- (iii) Purchase of fodder ;
- (iv) Intercultivating;
- (v) Threshing;
- (vi) Hire of purchase of plough, cattle and agricultural implements ;
- (vii) Maintenance of the debtor and his dependants and of his cattle and repairs to agricultural implements;
- (viii) Current expenses of running agricultural machinery . e. g,, pumps or engines, including fuel charges ; and such other purpose in respect any particular area in any particular year as may have been certified by Government to be necessary for the purpose of raising or harvesting any crop in that year.

**3. Seasonal finance :-**

The purposes of advancing of loans for which shall be " Seasonal Finance" within the meaning of clause (13) of section 2. shall be -

- (i) Raising of crops during the ploughing season or later, ploughing, sowing, harrowing, weeding, harvesting, purchase of seeds and manure:
- (ii) Labour charges ;
- (iii) Transport charges ;
- (iv) Purchases of fodder;

(v) Intercultivating ;

(vi) Threshing;

(vii) Hire of purchase of plough, cattle and agricultural implements;

(viii) Maintenance of the debtor and his dependants and of his cattle and repairs to agricultural implements ; and

(ix) Current expenses of running agricultural machinery, e.g., pumps or engines, including fuel charges.

**4. Applications under sub-section (1) of section 4 and sub-section (1) of section 8 :-**

Application under sub-section (1) of section 4 shall be in Form Nos. 1 and 2 and applications under subsection (1) of section 8 shall be in Form No.3. They shall be presented to the Court during office hours by the applicants personally or shall be sent by registered post addressed to the Court and shall be received by the Civil Judge or by such person as may be authorised by him to receive them.

**5. Manner of publication of general notice under section 14 :-**

The general notice under clause (b) of section 14 shall be published by affixing copies of it at the offices of the Court concerned and of the Mamlatdars or Mahalkaris of the talukas or petas concerned. Such notice shall state that the list of debtors, who have made applications for adjustment of debts or against whom applications have been made, will be available for inspection at all reasonable times in the Court.

**6. Form of statement under section 14 :-**

The statement which a debtor or creditor is required to submit under section 14 shall be in Form No. 4 or 5, as the case may be.

**7. Manner of determining the value of debtors property under sub-section (1) of section 29 :-**

(i) For the purposes of sub-section (1) of section 29, the value of the debtor's moveable and immoveable property shall be determined by the Court in the manner specified in this rule.

(ii) Immoveable Property :- The Court shall determine the value of any immoveable property by taking into consideration-

(a) the bona fide sales and leases of the property in question

during the preceding twelve years:

(b) the bona fide sales and leases of similar properties in the neighbourhood during the preceding twelve years; and

(c) the valuation of the property in question made by the Land Valuation Officers appointed by Government in this behalf.

(iii) Moveable property:- The Court shall determine the value of moveable property by taking into consideration the valuation of the property in question made by the Land Valuation Officers appointed by Government in this behalf and also by questioning the parties concerned and by making such other inquiries as it may think fit.

(iv) the Land Valuation Officers appointed by Government may be appointed by the Court as Commissioners under Order XXVI in Schedule I to the Code of Civil Procedure, 1908, for the purpose of making an inquiry for determination of the values of debtor's moveable and immoveable property.

**8. Manner of determining the market value of debtors property under sub-section (4) of section 29 :-**

For the purposes of sub-section (4) of section 29, the market value of the debtor's lands, which under any law for the time being in force, are not transferable or alienable except with the previous sanction of the Collector or the State Government shall be determined by the Court by taking into consideration-

(a) the bona fide sales and leases of lands in question during the preceding 12 years, if any ;

(b) the bonafide sales and leases of similar lands in the neighbourhood during the preceeding twelve years - and after ascertaining the valuation of the lands in question from the Mamatldar of the taluka or the Mahalkari of the peta concerned.

**9. Forms of award :-**

(i) the award under section 32 shall be in Form No. 6 and the award under sub-section (2) of section 33 shall be in Form No. 7 .

(ii) The Court shall send a copy of the award passed under subsection

(2) of section 33 to the Primary Land Mortgage Bank concerned or the Bombay Provincial Co-operative Land Mortgage Bank, Ltd., as the case may be

**9A. Certification of Court under proviso to section 33 (4) :-**

(1) An application for a certificate of the Court under the proviso to sub-section (4) of section 33 shall be in Form No,7 and shall be presented by the Manager of the Primary Land Mortgage Bank, Ltd., or of the Bombay Provincial Cooperative Land Mortgage Bank, Ltd., as the case may be, to the Court concerned during the office hours personally or sent by registered post addressed to the Court. Every such application shall be received by the Civil Judge or by such person as may be authorised in this behalf by him to receive it.

(2) On receipt of such application the Court shall, after making such inquiry as it deems fit, issue the requisite certificate in favour of the Bank.

**10. Application under clause (i), sub-section (3) of section 38 :-**

Application under clause (i) of sub-section (3) of section 38 shall be in form No. 8.

**11. Procedure when a debtors property is ordered to be sold under section 41 or sub-section (9) of section 47 :-**

(i) every sale of property, whether moveable or immovable, under Sec 41 or sub-section (2) of section 47 shall be held by an officer of the court in accordance with the procedure laid down for the sale of such property under the Code.

(ii) A certificate in Form No. 9 shall be issued to the purchaser of property by the officer conducting the sale under this rule.

**12. Recovery of court-fees :-**

The court-fees payable under subsection (1) of section 44 shall be recovered as arrears of land revenue.

**12A. Form of register of Debt Adjustment awards and Index :-**

The Register of Debts Adjustment Awards in the form of a file book with numbered butts in Form No. 9-A and an Index relating thereto in Form Nos.9-B and 9-C shall be kept in all registration offices,

**12B. Particulars to be included in the memorandum :-**

To be sent by the Court to the Sub-Registrar or Registrar, as the case may be, under section 46-B shall be in Form No. 9-D and shall be endorsed on the certified copy of the award sent for registration

under the said section 46-B.

**13. Procedure in code to be followed generally :-**

In respect of any matter for which no provision is made in the Act or these rules, the procedure laid down in the Code shall, so far as may be, be followed by the court in the proceedings before it.

**14. Conditions subject to which authorised persons may advance loans :-**

The authority under section 54 to any person to advance loans to debtors Who are parties to any proceedings under the Act of in respect of whose debts an adjustment has been made under the Act (hereinafter referred to in this rule as the authorised person), shall be in Form No. 10, it shall not be granted except on the following conditions :

(i) Purposes for which advance may be made and maximum limits of such advances.- The authorised persons shall not advance loans to any debtor except for the purpose of Seasonal finance not exceeding the maximum limits which the Collector has Fixed in this behalf under Rule 5. The authorised person shall not knowingly advance any loan to any debtor who had previously taken a loan from another authorised person unless such previous loan has been fully paid or unless he (the authorised person) agrees to discharge the liability of the debtor in respect of such previous loan.

(ii) Authorised person not to withhold permission for sale of crops or produce.- the authorised person shall not unreasonably withhold permission required by a debtor under sub-section (1) of section 53 for sale of the standing crops or the produce of his land and if the authorised person himself buys the crops or produce he shall pay the debtor the price thereof at the market rate.

(iii) duty of authorised person to maintain and furnish accounts -

(a) the authorised person shall keep regularly in Form No. 11 a separate account of each loan advanced to a debtor :

Provided that where the loans to any debtor are advanced on a current account, the authorised person may keep one account of all transactions relating to such loans.

Explanation.- for the purposes of this clause the term "current account" includes, in the case of banks, accounts, relating to overdrafts, cash credit and pro note accounts, which maintained in

the form or current accounts.

(b) the authorised person shall, within one month after the expiry of every year supply every debtor a full and correct statement of accounts shall show by him or his agent. Such statement of accounts shall show the transactions entered into during the year and the balance outstanding on account of each loan on such date as Government may prescribe either generally or for a particular area and shall contain particulars as in form no. 12:

Provided that where the loans are advanced on a current account it shall be sufficient to furnish particulars of the balance due on the whole of such account on the prescribed date. In the case of banks, requirements of this clause shall be deemed to have been complied with if a full statement of account has been supplied to the debtor by means of a pass-book or otherwise from time to time throughout the year and information is given within one month after the expiry of the year of the amount of the balance remaining due on the prescribed date.

(c) The statement of accounts shall be furnished to the debtors by registered post and acknowledgment obtained thereof at the cost of the authorised person.

(iv) Rate and calculation of interest.- (a) the authorised person shall not charge or recover interest at a rate higher than the rate notified by Government under Rule 16.

(b) If any repayment is made in respect of a loan, interest on such loan shall be calculated up to the date of such repayment; and if the loan or any part of it outstanding, interest shall thereafter be calculated only on the balance of the principal; still outstanding.

(v) Inspection of accounts to be allowed.- the authorised person, unless specially exempted by government, shall allow such officer as may be appointed in this behalf by government to inspect the account maintained by him.

(vi) Penalty for non-compliance with conditions mentioned in this rule.- Government may in its discretion cancel the authority granted by it for breach of any of the foregoing conditions or for any other reason.

**15. Collector to fix maximum limits up to which advance may be made :-**

The Collector shall, by notification in the official Gazette, fix maximum limits up to which persons authorised under section 54 may advance loans of debtors, who are parties to any proceedings under the Act or in respect of whose debts an adjustment has been made under the Act for seasonal finance once a year. Such limits shall come into force from the 1st day of the month next to that in which the notification is published by the Collector and shall remain in force till the end of the month in which a fresh notification is published by the Collector in the next year. Such limits may be fixed separately for different crops and for different areas having regard to the seasons and nature and productivity of crops.

**16. Government to fix maximum rates of interest :-**

Government shall from time to time, by notification in the Official Gazette, fix a rate of interest not exceeding six per cent, per annum, at which loans for seasonal finance may be advanced by persons authorised under section 54.