

Goa, Daman And Diu (Extension Of The Provincial Insolvency Act) Act, 1968

1 of 1968

[31 January 1968]

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AN ACT to provide for the extension of the Provincial Insolvency Act, 1920, to the Union territory of Goa, Daman and Diu, and for certain other matters. Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Eighteenth Year of the Republic of India as follows:-

1. Short Title And Commencement :-

- (1) This Act may be called the Goa, Daman and Diu (Extension of the Provincial Insolvency Act) Act, 1967.
- (2) It is came into force on 1-6-1978.

2. Extension And Amendment Of Provincial Insolvency Act, 1920 :-

- (1) The Provincial Insolvency Act, 1920 as in force on the date of commencement of this Act in the territory to which it generally extends (hereinafter referred to as the "said Act") is hereby extended to, and shall be in force in the Union territory of Goa, Daman and Diu, hereinafter referred to as the said territory.
- (2) On the commencement of this Act, the said Act shall stand

amended as specified in section 3.

3. Amendment Of Central Act 5 Of 1920 :-

In the said Act,-

(1) in section 2, in sub-section (1),-

(i) in clause (e), the word "and" occurring at the end shall be omitted;

(ii) after clause (e), the following clause shall be inserted, namely:-
"(ee) "State Government" in relation to the Union territory of Goa, Daman and Diu means the administrator thereof; and";

(2) for the words "High Court" (Whether in the singular or in the plural), wherever they occur, the words "Judicial Commissioners Court" shall be substituted;

(3) in section 6,-

(i) in clause (g), the word "or" occurring at the end shall be omitted;

(ii) in clause (h), the word "or" shall be inserted at the end;

(iii) after clause (h), the following clause shall be inserted, namely:-

"(i) if, after a creditor has served an insolvency notice on him in respect of a decree or an order for the payment of any amount due to such creditor, the execution of which is not stayed, he does not, within the period specified in the notice (which shall not be less than one month) comply with the requirements of the notice:

Provided that the debtor shall not be deemed to have committed an act of insolvency for not complying with the requirements of the notice, if he has a counter-claim or set-off which equals or exceeds the decretal amount or the amount ordered to be paid by him and which he could not lawfully set up in the suit or proceeding in which the decree or order was made against him";

(4) After section 6, in the said Act the following section shall be inserted, namely:- "Insolvency notice- 6A (1) An insolvency notice under this Act shall be in the prescribed form and shall be served in the prescribed manner.

(2) The said notice shall require the debtor to pay the amount due under the decree or order or to furnish security for the payment of such amount to the satisfaction of the creditor or his agent, and shall also state the consequences of non-compliance with the notice.

(3) The insolvency notice shall not be invalidated by reason only that the sum shown therein as the amount due to the creditor exceeds the amount actually due, unless the debtor, within the

time allowed for payment, gives notice to the creditor that he disputes the validity of the insolvency notice on the ground of such mis-statement; but where the debtor does not give a notice as aforesaid he shall be deemed to have complied with the insolvency notice if within the time allowed, he takes steps as would have constituted a compliance with the notice had the actual amount due been correctly shown therein.";

(5) in section 79, in sub-section (2),-

(i) in clause (d), the word "and" occurring at the end shall be omitted;

(ii) after clause (d), the following clause shall be inserted, namely:-
"(dd) the form of the insolvency notice and the manner in which it may be served, and";

(6) section 83 of the said Act shall be omitted.

4. Repeal And Savings :-

On and from the date on which the provisions of the said Act come into force in the said territory, the corresponding provisions of any law in force in the said territory shall stand repealed: Provided that the repeal shall not affect -

(a) the previous operation of the provisions so repealed or anything duly done or suffered thereunder,

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the provisions so repealed,

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the provisions so repealed, or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the said provisions had not been repealed:

Provided further that, subject to the proceeding proviso, anything done or any action taken (including any appointment made, notification issued or rule framed) under the provisions so repealed shall be deemed to have been done or taken under the corresponding provisions of the said Act as amended by this Act and now extended to the said territory and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under the said Act as amended by this Act.

5. Rules Of Construction :-

(1) In the said Act, any reference to any provision of law not in force, or to any functionary not in existence, in the said territory, shall be construed as a reference to the corresponding law in force or to the corresponding functionary in existence, in the said territory:

Provided that -

(i) if any question arises as to who that corresponding functionary is, or

(ii) if there is no such corresponding functionary, the Lieutenant Governor of Goa, Daman and Diu Shall decide as to who is or will be such functionary and his decision shall be final.

(2) For the purpose of facilitating the application of the said Act in relation to the said territory, any court or other authority may construe it in such manner not affecting the substance as may be necessary or proper to adapt it to the matter before the court or other authority.