

Haryana Relief Of Agricultural Indebtedness Act, 1989

9 of 1989

[31 March 1989]

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Haryana Relief Of Agricultural Indebtedness Act, 1989

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AN ACT to provide relief from indebtedness to agriculturists, agricultural labourers and rural artisans. BE it enacted by the Legislature of the State of Haryana in the Fortieth Year of the Republic of India as follows:- 1 For statement of Objects and

Reasons see Haryana Government Gazette (Extraordinary), dated the 7th March, 1989, Pages 2 For statement of Objects and Reasons see Haryana Government Gazette (Extraordinary), dated the 5th March, 1991, Page - Substituted by Haryana Act. 8 of 1991. 3 For statement of Objects and Reasons see Haryana Government Gazette (Extraordinary), dated the 13th December, 1991, Page 4 For statement of Objects and Reasons see Haryana Government Gazette (Extraordinary), dated the 23rd August, 1993, Page

1. Short Title And Commencement :-

(1) This Act may be called the Haryana Relief of Agricultural Indebtedness Act, 1989.

(2) It shall come into force at once.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "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 in kind or partly in cash and partly in kind:-

i) farming including cultivation and tillage of soil, etc;

ii) 1[dairy farming and fisheries;]

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 farm operations (including any forestry or timbering operations) and preparation for market and delivery to storage or to market or to carriage for transportation of farm products;

(b) "agriculturist" means a person who owns land and whose principal means of livelihood is income from cultivation of such land or partly by income from cultivation of such land and partly by income he gets as wages in cash or kind or partly in cash or partly in kind, in connection with the agricultural occupation he performs;

(c) "bank" means-

i) banking company as defined in the Banking Regulation Act, 1949 (Central Act 10 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 38 of 1959);
- 2[iv) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Parliament Act 5 of 1970) and as defined in clause (b) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;]
- 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 Central Government in the Gazette as bank for the purpose of this Act;
- (d) "civil court" includes-
 - i) a court exercising jurisdiction under the Provincial Insolvency Act, 1920 (Central Act 5 of 1920);
 - ii) a Panchayat establishment under the Punjab Gram Panchayat Act, 1952 (Punjab Act 4 of 1953), while exercising functions of a civil court;
 - iii) a court exercising powers under the Provincial Small Cause Courts Act, 1887 (Central Act 9 of 1887);
- (e) "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;
- (f) "co-operative society, means a society registered or deemed to be registered under the Haryana Co-operative Societies Act, 1984 (Haryana Act 22 of 1984);
- (g) 2 ["debt" means loan taken for agricultural occupations mentioned in clause (a) and includes construction of room for tube well, purchase of van or cart etc. for transport of produce and all liabilities owing to a creditor including a Bank in cash or kind, secured or unsecured, payable under a decree or order of a civil court or otherwise] whether due or not due but it does not include-
 - i) a debt due to the Central Government;
 - ii) 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;
 - iii) any rent due in respect of any property let out to a debtor;
 - iv) any liability arising out of breach of trust or any tortuous

liability;

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

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

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

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

ix) any advance of wages whether in cash or in kind, or partly in cash or partly in kind, made to a debtor at his instance 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; and

x) any sum recoverable as arrears of land revenue other than which is due to a bank or a co-operative society;

3[xi) any debt taken against fixed deposits or for the construction of residential house or for personal car;]

4[xii) any debt due to a Scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934 and included in the Second Schedule thereof;

(xiii) any debt due to the Haryana State Co-operative Apex Bank Limited, Chandigarh the Central Co-operative banks, the Primary Co-operative Agricultural Development Banks and the primary Co-operative credit and Service Societies; registered under the Haryana Co-operative Societies Act, 1984;]

(h) "debtor" means an agriculturist, an agricultural labourer or a rural artisan who owes a debt:

Explanation - The term debtor includes an agriculturist notwithstanding, he has joined service in the Armed Forces of the Union; 2[provided that his wife, children or parents or any of them are engaged in the occupations.]

5[(hh) "prescribed" means prescribed by rules made under this Act;

(hhh) "principal" means and includes such sum or sums of money taken on loan at one time or from time to time less interest accruing thereon;]

(i) "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 practicing a craft wither by his own labor or by the labor of the members of his

family in rural area.

1 For statement of Objects and Reasons see, Haryana Government Gazette (Extraordinary), dated the 5th March, 1991, Page - Substituted by Haryana Act, 8 of 1991.

2. Substituted by Haryana Act 8 of 1991.

3 Added by Haryana Act 8 of 1991.

4 Added by Haryana Act 6 of 1992 and further Substituted by Haryana Act 15 of 1993.

5 Inserted . by Haryana Act 8 of 1991.

3. Discharge Of Debt :-

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

(a) every debt, together with any interest payable thereon, owed 1[] by a debtor shall be deemed to be who by discharged, if -

i) he had in the discharge of his debt, paid a sum exceeding or equivalent to double the amount of the principal at any time 1[];

ii) he, in the discharge of his debt, pays 1[] a sum which, together with any sum already paid in the discharge of such debt, is equivalent to double the amount of the principal;

(b) every property pledged or mortgaged by a debtor whose debt is deemed to be discharged under clause (a), shall stand released and shall vest in him free from all encumbrances when such debt is deemed to be discharged;

2 ["(c) subject to the provisions of clause (a), the debtor is liable to repay the debt, together with any interest payable thereon, at least to the extent of twenty percent of the gross value of his annual income from his occupation, yearly till the amount of debt together with interest payable thereon or the amount equivalent to double the amount of debt, whichever is less, is paid by him."]

3[Proviso * * * * *

1 Omitted by Haryana Act 8 of 1991.

2 Substituted by Haryana Act 8 of 1991. of further substituted by Haryana Act 22 of 2004.

3 Added by Haryana Act 8 of 1991 and further Omitted by Haryana Act 15 of 1993.

4. Interest :-

1[The interest payable for a particular type of debt shall be calculated at the rate which has been prescribed by the Reserve

Bank of India and where such rate has not been prescribed, the rate of interest shall be ten percent. Credit shall be given for all sums paid or credited first towards outstanding interest and the balance, if any, shall be credited to wards repayment of the principal. The amount of principal and the interest outstanding will be considered as the net outstanding debt for the purpose of scaling down.

Explanation.- The interest payable shall be simple and not compound interest]

1 Substituted by Haryana Act 8 of 1991. of further substituted by Haryana Act 22 of 2004.

5. Setting Up Of Debt :-

(1) (a) The State Government may for the purpose of settlement between debtors and their creditors establish Debt Conciliation Boards.

(b) The State Government shall define the local limits of the area in which a Board shall have jurisdiction.

(c) Such Board shall consist of a chairman and one or more members to be appointed by the State Government. Provided that no act done or proceeding taken by a Board under this Act shall be called into question on the ground merely of the existence of any vacancy in any Boards.

(d) The Chairman and every member of a Board so established shall be appointed for a term not exceeding three years, but shall be eligible for re-appointment on the expiry of his term.

(e) The quorum of a Board shall be prescribed by the State Government.

(f) Where the chairman and members of a Board are not unanimous, the opinion of the majority shall prevail, and, if the Board is equally divided the chairman shall exercise a casting vote.

(2) The State Government may cancel the appointment of any member of a Board or dissolve any Board.

(3) The State Government shall notify in the Official Gazette-

(a) the establishment of a Board and the appointment of its members; and the Board shall be deemed to have been established and its members appointed from the date specified in such notification or notifications;

(b) the cancellation of the appointment of any member of a Board; and from the date specified in such notification the member shall cease to be a member of the Board;

(c) the dissolution of Board; and from the date specified in such notification the Board shall cease to exist.

(4) When a Board is dissolved or ceases to exist otherwise, the State Government may at any time establish another Board within the same local limits in which the former Board has jurisdiction and may declare this Board to be the successor in office of the first Board.

6. Conciliation :-

A debtor or any of his creditors may apply to the Board appointed for the area in which the debtor resides or holds any land to effect a settlement between the debtor and his creditors 1[:]

2[Provided that the Board in appropriate cases may stay the recovery of the debt after hearing the parties till final settlement.]

1 Substituted by Haryana Act 8 of 1991.

2 Added by Haryana Act 8 of 1991.

7. Application For Settlement :-

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

8. Verification Of Application :-

(1) Every application presented by a debtor to the Board shall Particulars to be contained 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 place or places at which any such property is to be found;

1[(d) the particulars of estimating income from his occupation, as may be prescribed;]

(d) a statement containing full particulars showing that he is a debtor;

(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 Board, 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.
1. Substituted by Haryana Act 8 of 1991.

9. Procedure On Receipt Of Application :-

- (1) On receipt of an application under section 6, the Board shall pass an order fixing a date and place for hearing the application.
- (2) Notice of the order under sub-section 91) shall be sent to creditors by registered post, acknowledgement due, at the cost of the applicant and where the debtor is not the application, notice of the order under sub-section (1) shall be sent to him in a similar manner.

10. Notice Calling Upon Creditors To Submit Statements Of Debts :-

- (1) On the date fixed, the Board 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 Lanners Act, 1983 (Punjab Act 3 of 1938), and had complied with the provisions thereof, shall be submitted to the Board in writing within a period of two months from the date of publication of the notice:

Provided that if the Board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such direction or to produce the documents required under sub-section (1) of section 11 within the period fixed, it may extend the period for the submission of his 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 Board in compliance with the provisions of sub-section (1) shall be deemed to be duly discharged for all purposes started in application and all occasions against such creditors; and every debt owed to two or more creditors jointly, of which such a statement or statements signed by all such creditors or their recognized 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 recognized agent or with the permission of the Board by legal practitioner, in accordance with the provisions of section 20, at any of the hearing fixed by the Board, or fails to produce full particulars and documents as required under sub-section (1) of section 11. the debt due to him or 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 Board that the notice was not served on him and that he had no knowledge of its publication or that he was unavoidably absent at any of the hearing fixed by the Board, the Board may revive that debt.

11. Procedure On Submission Of Statement Of Debts :-

(1) Every creditor submitting in compliance with a notice issued under sub-section (1) of section 10, a statement of the debts owed to him shall furnish, along with such statement, full particulars of all such debts 1[and shall at the same time produce true copies of all such documents (including entries in books of account) on which he relies to support his claims:]

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 compound interest or simple interest at the rate higher than the rate specified in section 4.

2[(2)]

1. Substituted by Haryana Act 8 of 1991.

2. Omitted by Haryana Act 8 of 1991.

12. Power Of Board To Adjudicate :-

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

1[(2)

(3)]

(4) The Board shall determine in the case of each debt shown in the application made by the debtor or his creditor under section 6 or in the statement furnished by the creditor under section 11, other than a debt declared non-genuine or unenforceable, the principal amount originally advanced the amount paid by the

debtor towards the principal or interest or both.

(5) 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 Board shall declare the debt as fully discharged and thereupon the provisions of clause (b) of section 3 shall apply. If the amount repaid to the creditor is found to be in excess of double the principal, the Board shall order the refund of the same to the debtor by the creditor.

(6) The Board shall estimate the annual income from the occupation of a debtor and determine for the purposes of section 3, his liability and capacity to repay the debts outstanding against him.

(7) In the case not falling under sub-section(5), the Board 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 installments 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 installment 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 installments equal to the paying capacity and on payment of the installments so determined, the debt or debts shall stand fully discharged.

1 Omitted by Haryana Act 6 of 1992.

13. Consequence Of Non-Registration Under Punjab Act 3 Of 1938 :-

In recording findings under section 12, the Board 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), 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.

14. Power Of Board To Summon, Etc. :-

The Board 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 Board shall be deemed to be judicial proceeding.

15. Dismissal Of Application In Default :-

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

16. Decision Of Board To Be Final :-

If 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 Board shall be final, and shall not be called into question in any court.

17. Bar Of Civil Suits :-

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 is 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 the Board.

18. Review :-

Any person considering himself aggrieved by an order of the Board 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 Board. The Board may review the order and pass such order as it thinks fit.

Provided that the Board 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 review shall be entertained if presented more than twelve months after the date of the order sought to be reviewed.

19. Appeal :-

1[(1) Any person aggrieved by a decision of the Board may file an appeal to the Collector of the district.

(2) The period of limitation for an appeal shall run from the date of the order appealed against and shall be thirty days.]

1 Substituted by Haryana Act 6 of 1992.

20. Appearance Of Parity Before The Board By Agent Or By Legal Practitioner :-

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

21. Application Of Provision Of Parliament Act 36 Of 1963 :-

Unless otherwise provided in this Act the provisions of the Limitation Act, 1963 (Parliament Act 36 of 1963), shall apply to an application under section 6 as if the application were a plaint in a suit for recovery of the loan.

22. Recovery Of Sums Due :-

The order of the Board 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.

22A. Power Of State Government To Give Directions :-

1[The State Government may issue directions to the Board for carrying out the purposes of this Act and in particular with regard to the quick settlement of the debt cases pending with the Board.]

1. Inserted by Haryana Act 8. of 1991.

23. Power To Make Rules :-

(1) The State Government may, by notification in the Official 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 the Act.

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

(3) Every rule made under this Act shall be laid as soon as may be, after it is made, before the House of the Stat Legislature, while it is in session for a total period of ten days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the House agrees in making any modification in the rule or the House agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

24. Repeal :-

The Haryana Relief of Agricultural Indebtedness Act, 1976, except section 26 thereof, is hereby repealed.