

## **United Provinces Agriculturists Relief Act, 1934**

**27 of 1934**

**[15 January 1935]**

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## **United Provinces Agriculturists Relief Act, 1934**

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**[15 January 1935]**

An Act to make provision for the relief of agriculturists from indebtedness. Whereas it is expedient to make provision for the relief of agriculturists from indebtedness ; And whereas the previous sanction of the Governor-General under section 80-A (3) (e) of the Government of India Act has been obtained to the passing of this Act; It is hereby enacted as follows: 1. For S.O.R. see Gazette, dated May 13, 1933, Pt. Vii, pp. 6970. 2. For S O R please see Gaz., 1935, Pt. VIII, p. 230. 3. For S O R please see Gaz., 1937, Pt. VIII, p. 438.' 4. For S O R please see Gaz., dt. Oct. 9, 1948. Pt. VIII, p. 75. for publication, please see Gaz., dt. Dec.

18, 1948, Pt. VII-A, p. 74. Section 3 of this Act reads as follows :  
"Any appeal preferred under section 23 of the principal Act transferred to any Additional District Judge, Civil Judge or Additional Civil Judge and disposed of, and any order made, by such Judge shall be deemed to be and always to have been duly and validly transferred, disposed of and made, as the case may be, as if this Act had then been in force". 5. Please see Gaz., 1935, Pt. VIII, pp. 22-29.

## CHAPTER 1 PRELIMINARY

### **1. Short Title, Extent And Commencement :-**

(1) This Act may be called the United Provinces Agriculturists Relief Act, 1934. (2) It extends to the whole of 1[Uttar Pradesh] [\* \* \*]2 Provided that the provisions of Chapter III shall not apply to any mortgage to which the provisions of the Bundelkhand Land Alienation Act, 1903, are applicable. (3) The 3[State Government] may after obtaining the approval of 4[both Houses of the State Legislature] by notification in the 5[official Gazette] direct that all or any of the provisions of the Act shall not apply to any area which it may specify in the notification. (4) It shall come into force on such date as the [State Government] may by notification direct. 1. Substituted by the ALO 1950 for (the United Provinces). 2. The words (of Agra and Oudh) omit, by ALO 1950. 3. Substituted by the ALO 1950 for "Provincial Government" which had been Substituted by the ALO 1937 for Local Government. 4. Substituted by the ALO 1950 for "both Chambers of the Provincial Legislature". 5. Substituted for "Gazette" by the ALO 1937.

### **2. Interpretation Clauses :-**

In this Act, unless there is anything repugnant in the subject or context-- (1) "Agricultural calamity" means, with reference to a particular debtor, a calamity other than a slump in prices on account of which- (a) if the debtor is a revenue-paying landlord, or an under-proprietor in Oudh holding a sub-settlement, there has been a suspension or remission of the revenue of any of his holdings; or (b) if the debtor is a landlord, holding land free of revenue, there would have been a suspension or remission of the revenue of any of his holdings if revenue had been payable therefor; or (c) if the debtor is a thekedar of land there has been a suspension or remission of the rent of any holding payable to him ; or (d) if the debtor is a tenant of land or a person other than a thekedar or an under-proprietor in Oudh holding a sub-settlement

and paying rent for his land, there has been a suspension or remission of the rent of any holding payable by him. (2) "Agriculturists" means, in all sections of the Act where the term used - (a) a person who, in districts not subject to the Benaras Permanent Settlement Regulation, 1795, pays land revenue not exceeding Rs. 1,000 per annum; or (b) a person who, in districts subject to the Benaras Permanent Settlement Regulation, 1795, pays a local rate under section 109 of the District Boards Act, 1922, not exceeding Rs. 120 per annum; or (c) a person holding land free of revenue, who pays a local rate under section 109 of the District Boards Act, 1922, not exceeding Rs. 120 per annum; or (d) in Oudh, an under-proprietor holding a sub-settlement of land the revenue of which does not exceed Rs. 1,000 per annum; or (e) a thekedar who holds a theka of land the revenue of which does not exceed Rs. 1,000 per annum; or (f) a person other than a thekedar or an under-proprietor in Oudh holding a sub-settlement who pays rent for agricultural land not exceeding Rs. 500 per annum; or (g) a person holding land free of rent, the area of which does not exceed 80 acres; or (h) a person ordinarily having outside the limits of any municipality who belongs to any of the classes of persons mentioned in Schedule I: Provided that in sections 2 (10) (a) ; 3, 4, 5, 8 and Chapters IV and V an agriculturist means also a person who belong to a class of persons mentioned in parts (a) to (g) of this sub-section, if the limits of land revenue, local rates, rent and area mentioned in these parts were omitted: Provided also that no person shall be deemed to be an agriculturist if he is assessed to income-tax, which, if he belongs to any of the clauses (a) to (e) above, exceeds the local rate payable on the land which he holds, or if he belongs to class (f) above, exceeds 65 per cent, of his rent or, if he belongs to clause (g) above, exceeds Rs. 25: Provided further that if a non-agriculturist joint with an agriculturist in any transaction of loan, save for the purpose of adding his name as security, the agriculturist shall not be considered as such for the purpose of that transaction. Explanation I.--In this sub-section "revenue" and "rent" means revenue and rent payable irrespective of the remission that may be granted for the slump in prices or for agricultural calamities. Explanation II. --In the case of members of a joint Hindu family or joint owners or joint tenants, each member or owner or tenant shall be considered to be an agriculturist for the purposes of Chapters II (except sections 3, 4, 5 and 8), III and VI, whose share or interest in revenue, local rate or rent or the rent-free land, as the case may be, does not respectively exceed the

aforesaid limits. Explanation III. - In Oudh an under-proprietor of specific plots not holding a sub-settlement and paying rent not exceeding Rs. 500 per annum is an agriculturist. Explanation IV.-- The word "rent" in this sub-section includes, in cases where rent is payable in kind, the money equivalent thereof recorded in the khatauni of the previous year. Explanation F.-The word "rent" in this sub-section shall not include void mutalba or any amount paid in excess of the rent legally payable. Explanation VI. - When a person pays both rent and revenue, he shall not be deemed to be an agriculturist for the purposes of Chapters II (except sections 3, 4, 5 and 8), III and VI, if the total of the rent and revenue annually payable by him exceeds Rs. 1,000 or if he is excluded from the definition of agriculturist under any of the clauses (a) to (g). Explanation VII.-When a person, holding land in districts subject to the Benares Permanent Settlement Regulation, 1859, or holding land free or revenue, pays both rent and local rate, he shall not be deemed to be an agriculturist if the total of the rent and local rate annually payable by him exceeds Rs. 500. Illustration. - (i) A person who pays Rs. 800 as revenue and Rs. 400 as rent is not an agriculturist as the total of rent revenue exceeds the limit of Rs. 1,000. (ii) A person pays Rs. 200 as revenue and Rs. 600 as rent. He comes under clause (a) but not under clause (f); he is not therefore an agriculturist. (3) "Bond" means a bond as defined in section 2 of the Indian Stamp Act, 1899. (4) "Collector" means the officer appointed as Collector of a district under the Land Revenue Act, 1901. (5) "Court" means a civil court. (6) "Co-operative Society" means a society registered under the provisions of the Co-operative Societies Act, 1912. (7) "Creditor" in Chapter V means a person who, in the regular course of business, advances a loan as defined in this Act, and includes the legal representatives and the successors-in-interest, whether by inheritance, assignment or otherwise, of a creditor. (8) "Interest" includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or in the form of service or otherwise. (9) "Land" and "landlord" shall have the same meaning as in the Agra Tenancy Act, 1926. (10) (a) "Loan" means an advance to an agriculturist, whether of money or in kind, and shall include any transaction which is in substance a loan, but shall include -- (i) a loan advanced by 2[the Central Government or the State Government] or by any Municipal, District or Cantonment Board authorized by the 3[State Government] to advance loans, or by a Co-operative Society; (ii) except for the

purposes of sections, 7, 8, 33 (1), 35, 36 and 39 (1), (3) and (4), small loans not exceeding Rs. 20 repayable within a year in fixed equated instalments the total of which does not exceed the principal by more than 10 or 20 per cent, according as the instalments are spread over a period of less than six months or more than six months, provided that no further interest is charged in addition to fixed equated instalments; and (iii) a loan of agricultural produce repayable at the next harvest with not more than one-quarter of the quantity of the said produce by way of interest. Explanation.- A loan advanced as one transaction shall, for the purpose of sub-clause (ii) be deemed to be one loan, even though it is evidenced by several separate documents or by separate entries in a document. (b) "Secured loan" means a loan for which property other than agricultural produce is specifically hypothecated as security. (c) "Unsecured loan" means a loan which is not secured. (11) "Money" shall be deemed to include agricultural produce, implements and stock. (12) "Prescribed" means prescribed by this Act, or by rules made under this Act. (13) "Thekadar" shall have the same meaning as in the Agra Tenancy Act, 1926. (14) "Under-proprietor" shall have the same meaning as in the Oudh Rent Act, 1886. 1. Repealed by the U.P. Act XVII of 1939, except for the areas to which U.P. Act No. XVII of 1939 does not apply. 2. The word "State" was substituted by the ALO 1950 for "Provincial". 3. Substituted by the ALO 1950 for "Provincial Government".

## CHAPTER 2

### SUITS AGAINST AGRICULTURISTS

#### **3. Fixing Of Instalments At The Time Of Passing Of Decree**

:-

1[(1) Notwithstanding any provision in the Code of Civil Procedure, 1908, to the contrary, the Court, at the time of passing a decree for money or a preliminary decree for sale in default of payment of money or a preliminary decree for foreclosure against an agriculturist, may, and, on the application of such agriculturist, shall, unless for reasons to be recorded it directs otherwise, direct that the total amount found due for principal, interest up to the date of the decree and costs, if any, shall be paid in such number of instalments payable on the date fixed by the court as having regard to the circumstances of the judgment-debtor and the amount of the decree, the Court considers proper: Provided that the period of such instalments shall not exceed beyond four years from the date of the decree in the case of an agriculturist to whom

Chapter III applies, and beyond fifteen years from such date in the case of other agriculturists: Provided further that, if the Court is satisfied that on account of an agricultural calamity the payment of any instalment by a judgment-debtor is likely to cause hardship, it may, after notice to the decree-holder, allow such further time for payment of such instalments as it may consider proper. (2) The Court may, at the time of passing an instalment decree against an agriculturist, either attach his immovable property, if any, or declare a charge on such property within the meaning of section 100, Transfer of Property Act, 1882, to the extent of the amount decreed. (3) An attachment under sub-section (2) shall, unless the Court directs otherwise, subsist, until the decree has been paid off or otherwise satisfied, and all provisions in the Code of Civil Procedure, 1908, relating to attachment in execution of decrees and to investigation of claims to attached property shall apply to such attachment. (4) If the decree provides for payment by instalments, the Court shall direct that, where the number of instalments allowed is four or five and any two instalments are in arrears, or where the number allowed is six or more and any three instalments are in arrears the decree-holder may, notwithstanding the provisions of any law for the time being in force, immediately enforce payment of the whole amount then remaining due under the decree, and in the case of a decree, for sale or foreclosure apply that a final decree shall be passed. (5) Nothing in any order made in an instalment decree shall debar a judgment-debtor from paying at any time, towards the satisfaction of the decree, the whole of the amount that may be due thereunder or any amount exceeding the amount of an instalment that may be fixed under the decree. 1. Repeated by Section 27 (1) of U.P. Act XIII of 1940 except to advance made before the 1st day of June, 1940.

#### **4. Future Interest :-**

(1) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the rate at which future interest may be allowed in any decree for payment of money or for sale in default of payment of money or for foreclosure or in any order for grant of instalments passed against an agriculturist shall not exceed the rate notified by the 1[State Government] in the 2[official Gazette] under sub-section (2) as in force at the time when the decree or order, as the case may be, is passed. (2) As soon as possible after the rate of interest at which the 3[Central Government] will lend money to the 4[State Government] is announced, the 4[State

Government] shall notify that rate in the 5[official Gazette], and publish in such other manner as it thinks proper, and that rate shall be the rate in force for future interest from such date as may be notified by the 4[State Government] until such date as it is superseded by a new rate. 1. Repeated by Section 27 (1) of U.P. Act XIII of 1940, made by the Governor in exercise of the powers assumed by him under Section 93 of Government of India Act, 1935, except in its application to advances made before the first day of June, 1940, not being loans as defined in that Act. 1. Substituted by the ALO 1950 for "Provincial Government" which had been Substituted by the ALO 1937 for "Local Government" 2. Substituted for "Gazette" by ALO 1937. 3. Substituted by ibid. 4. Substituted by the ALO 1950 for "Provincial Government" which had been Substituted, by the ALO 1937 for "Local Government" 5. Substituted for "Gazette" by ALO 1937.

#### **5. Power To Fix Instalments After The Passing Of Decrees :-**

(1) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Court shall, unless for reasons to be recorded it directs otherwise, at any time, on the application of the judgment-debtor and after notice to the decree-holder, direct that any decree for money or preliminary decree for sale or foreclosure, passed by it or by any court whose business has been transferred to it against an agriculturist, whether before or after this Act comes into force shall be converted into a decree for payment by instalments drawn up in such terms as it thinks fit in accordance with the provisions of section 3: Provided that any final decree for sale which has not been fully satisfied, passed before this Act comes into force, shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, be revisable in the same manner and to the same extent as the preliminary decree for sale or foreclosure passed against an agriculturist. (2) If, on the application of the judgment-debtor, the Court refuses to grant instalments, or grants a number of period of instalments which the judgment-debtor considers inadequate, its order shall be appealable to the court to which the court passing the order, is immediately subordinate, and the decision of the appellate court shall be final.

#### **6. Limit To The Execution Of Decree By Sale Of Agricultural Produce :-**

1[In no case shall a decree passed by a Civil Court against an agriculturist be executed by attachment or sale of agricultural produce after a period of four years calculated from the date of the



filing of the first application for execution: Provided that the period during which more than one-quarter of the holding of the judgment-debtor has been sublet or during which the judgment-debtor has suffered from an agricultural calamity shall be excluded from the period of four years mentioned in this section: Provided also that when instalments are granted under either section 3 or section 5, the period of execution allowed by this section shall, in respect of each instalment, date from the day on which the instalment falls due. 1. Repeated by Section 27 (1) of the LLP. Act XIII of 1940, except in its application to advances made before the first day of June, 1940 not being loans as defined in that Act.

## **7. Forum Of Suits Against Agriculturists :-**

1[Notwithstanding anything contained in any other enactment for the time being in force, every suit for recovering an unsecured loan in which the defendant, or, where there are several defendants, any of the defendant, is an agriculturist, shall be instituted and tried in a court within the local limits of whose jurisdiction - (a) the agriculturist defendant, or any of the agriculturist defendants, where there are more than one such defendants, actually and voluntarily reside, or (b) in case the agriculturist defendant, or all the agriculturist defendants, reside outside the limits of 2[Uttar Pradesh] 3[\* \* \*]. (1) The holding or the landed property of the agriculturist-defendant, or any of them, if there are more than such defendants, is situate, and (2) If the agriculturist-defendant or none of the agriculturist-defendants has a holding or landed property, the agriculturist- defendant or any of them, if there are more than one such defendants, carries on the profession by virtue of which he is classed as an agriculturist. 1. Repeated by Section 27 (1) of the LLP. Act XIII of 1940, except in its application to advances made before the first day of June, 1940 not being loans as defined in that Act. 2. Substituted by the ALO 1950 for "the United Provinces". 3. The words "of Agra and Oudh" omitted by ibid.

## **8. Change In The Status Of An Agriculturist :-**

1[(1) No person shall be deemed to be an agriculturist for the purposes of this chapter, unless he was an agriculturist both at the time of advance of the loan as well as at the date of the suit: Provided that, if a person has a subsisting interest in land, but, by reason of a temporary transfer or for any other similar reason, does not for the time being pay any rent or revenue in respect thereof, he will not merely by reason of such non-payment cease to be an

agriculturist. (2) For the purposes of sections 3, 5 and 6 any change in the status of the defendant subsequent to the date of the suit in which the decree was passed shall be ignored. 1. Repeated by Section 27 (1) of the U.P. Act XIII of 1940, except in its application to advances made before the first day of June, 1940, not being loans as defined in that Act.

#### CHAPTER 3

#### MORTGAGES AND THEIR REDEMPTION

### **9. Form Of Possessory Mortgage :-**

1[Notwithstanding anything contained in the Transfer of Property Act, 1882, or any contract to the contrary, no mortgage of land or grove by any agriculturist made after the commencement of this Act shall be valid if, under the terms of such mortgage possession of the mortgaged land or grove is delivered to the mortgagee, unless the mortgagee is authorized to retain such possession and to receive the rents and profits of such land or grove both in lieu of interest and towards payment of the principal, on condition that after the expiry of a fixed term not exceeding twenty years, the mortgaged land or grove shall be re-delivered to the mortgagor and the mortgage debt shall be deemed to have been discharged. Explanation (1). -- For the purposes of this section "land" means and includes land which forms a mahal or a share or a portion of a mahal or specified plots in a mahal. Explanation (2), -- Nothing in this section shall be construed to confer a right of effecting usufructuary mortgage of land on persons who do not possess transferable rights in such land. 1. Repeated by Section 27 (1) of U.P. Act XIII of 1940, except in its application to mortgages made before the commencement of that Act.

### **10. Jurisdiction Of Collector Under This Chapter :-**

1[Applications under this chapter shall, if the principal money secured does not exceed Rs. 500, be brought before the Collector, and the word "court" in this chapter shall in such cases include the "Collector". 1. Repeated by Section 27 (1) of U.P. Act XIII of 1940, except in its application to mortgages made before the commencement of that Act.

### **11. Ejectment Of Mortgagee Remaining In Possession After Term :-**

1[If a mortgagee holding possession under a mortgage made after the commencement of this Act by an agriculturist, remains in possession after the expiry of the period for which he is entitled to

hold and on the expiry of which he is bound to deliver back the mortgaged property without any payment by the mortgagor, the Court shall, on the application of the person entitled to possession, direct that the mortgage be redeemed, eject such mortgagee, and place the person so entitled in possession, and may also direct to mortgagee to pay such compensation to the person found to have been wrongly kept out of possession as it may deem reasonable. 1. Repeated by Section 27 (1) of U.P. Act XIII of 1940, except in its application to mortgages made before the commencement of that Act.

## **12. Application For Redemption :-**

1[Notwithstanding anything contained in section 83 of the Transfer of Property Act, 1882, or any contract to the contrary, an agriculturist who has made a mortgage either before or after the passing of this Act, or any other person entitled to institute a suit for redemption of the mortgage, may; at any time after the principal money has become due, and, before a suit for redemption is barred, file an application before the Court within whose jurisdiction the mortgaged property or any part of it situate, in such form and giving such particulars as the 2[State Government] may by rule prescribe, and praying for an order directing that the mortgage be redeemed, and, where the mortgage is with possession, that he be put in possession of the mortgaged property. The application shall be duly verified in the manner prescribed by law for the verification of plaints and shall state the sum which the applicant declares to the best of his belief to be due under the mortgage. The applicant shall at the same time deposit such sum with the Court. Explanation.-For the purposes of sections 11 and 12 the word "property" includes grove. 1. Repeated by Section 27 (1) of U.P. Act XIII of 1940, except in its application to mortgages made before the commencement of that Act. 2. Substituted by the ALO 1950 for "Provincial Government" which had been substituted by the ALO 1937 for "LG".

## **13. Mortgagee To Be Summoned :-**

1[When the application has been duly presented and the deposit has been made, the Court shall issue a notice to the mortgagee to show cause on a day to be fixed in the notice why redemption should not be allowed. 1. Repeated by Section 27 (1) of U.P. Act XIII of 1940 except in its application to advances made before the first day of June, 1940, not being loans as defined in that Act.

#### **14. Procedure When Mortgagee Accepts Deposit :-**

1[If the mortgagee appears and accepts the deposit in full discharge of his mortgage, the Court shall order that the mortgage be redeemed, that the money deposited by the applicant be paid to the mortgagee and that the title deeds, if any, in possession or power of the mortgagee shall be deposited in Court and be delivered to the mortgagor. 1. Repeated by Section 27 (1) of U.P. Act XIII of 1940 except in its application to advances made before the first day of June, 1940, not being loans as defined in that Act.

#### **15. Procedure When Applicant Is Absent :-**

1[If, on the date fixed the applicant does not appear and the mortgagee does not accept the deposit in full discharge of the mortgage, the Court shall reject the application. 1. Repeated by Section 27 (1) of U.P. Act XIII of 1940 except in its application to advances made before the first day of June, 1940, not being loans as defined in that Act.

#### **16. General Procedure And Procedure In Contentious Cases :-**

If, on the date fixed, or any subsequent date to which the proceedings may have been postponed, the applicant appears and the mortgagee does not appear in spite of notice, or the mortgagee appears and does not accept the money deposited by the applicant in full discharge of his mortgage or objects to the redemption of the mortgage on any other ground, the Court shall hold an inquiry to determine whether the applicant is entitled to redeem the mortgage and whether the money deposited by him is sufficient. If the Court finds that the applicant is not entitled to redeem, it shall reject the application. If it finds that the applicant is entitled to redeem but must pay a larger amount than that deposited by him, the Court shall order the applicant to deposit the balance within a fixed period. If the applicant fails to deposit the said balance, the Court shall reject his application. If the Court finds that the applicant is entitled to redeem and that the amount deposited by him was sufficient or if it was not sufficient, the applicant has deposited the balance within the time fixed, it shall order that the mortgage be redeemed, that the money deposited be paid to the mortgagee, and that the title deeds, if any, in possession or power of the mortgagee shall be deposited in Court and shall be delivered to the mortgagor.

#### **17. Cessation Of Interest :-**

1[Where the mortgagor has deposited with the Court a sum which is accepted by the mortgagee under section 14, or is held by the Court to be sufficient under section 16, interest on such sum shall cease to run from the date of deposit. Where the Court finds that a larger amount than that deposited by the mortgagor is due, and the balance is deposited by the applicant, interest shall cease to run from the date of deposit of such balance. 1. Repeated by Section 27 (1) of U.P. Act XIII of 1940, except in its application to mortgages made before the commencement of that Act.

**18. After Redemption The Mortgagor To Be Put In Possession If Necessary :-**

1[In all cases in which the Court orders redemption, it shall, if necessary, also put the applicant in possession of the mortgaged property, subject to any condition of the mortgage whereby a season or period of the year is fixed for surrendering possession. 1. Repeated by Section 27 (1) of U.P. Act XIII of 1940, except in its application to mortgages made before the commencement of that Act.

**19. Return Of Deposit :-**

1[If the application is rejected, the Court shall return to the applicant the money deposited by him. 1. Repeated by Section 27 (1) of U.P. Act XIII of 1940, except in its application to mortgages made before the commencement of that Act.

**20. Deposit Not To Be Attached :-**

1[No sum deposited by an applicant under the provisions of this chapter shall, which is in such deposit, be attached by any court or revenue officer in enforcement of any claim against the applicant other than a claim arising out of the mortgage. 1. Repeated by Section 27 (1) of U.P. Act XIII of 1940, except in its application to mortgages made before the commencement of that Act.

**21. Terms "Mortgagor" And "Mortgagee" To Include Their Successors :-**

1[The words "mortgagor" and "mortgagee" in this chapter include respectively the successors-in-title of the original mortgagor and the original mortgagee. 1. Repeated by Section 27 (1) of U.P. Act XIII of 1940, except in its application to mortgages made before the commencement of that Act.

**22. Investment Of Powers Of Assistant Collectors And Transfer Of Proceedings :-**

1[(1) The [State Government] may empower any Assistant Collector of the first class to exercise the powers of a Collector under this chapter. (2) The Collector may transfer any proceedings under this chapter: - (a) from his own court to that of an Assistant Collector empowered under sub-section (1); (b) from the court of an Assistant Collector subordinate to him either to his own court or to that of any other Assistant Collector empowered under sub-section (1). 1. Repeated by Section 27 (1) of U.P. Act XIII of 1940, except in its application to mortgages made before the commencement of that Act.

### **23. Appeals :-**

1[(1) An appeal shall lie to the District Judge from an order of a Collector or Assistant Collector passed under this Chapter. An appeal shall lie from the order of a civil court passed under this chapter to the court to which original decrees passed by such courts are ordinarily appealable, and where such decrees are appealable to more courts than one, to the court of lowest jurisdiction-- 2[(1-A). A District Judge may- (i) transfer any appeal filed before him under sub-section (1) to any Additional District Judge, Civil Judge or Additional Civil Judge under his administrative control, and (ii) withdraw any appeal so transferred, and either hear and dispose of it himself or transfer it to a court under his administrative control competent to dispose of it. (1-B). Any Additional District Judge, Civil Judge or Additional Civil Judge may hear and dispose of any appeal transferred to him under sub-section (1-A) in like manner as the District Judge.] (2) No appeal shall lie from an appellate order passed under this section. 1. Substituted. by the ALO 1950 for "Provincial Government" which had been Substituted by the ALO 1937 for "L.G.". 2. Added by Section 2 of U.P. Act XLII of 1948.

### **24. When Application Can Be Filed Under This Chapter :-**

1[(1) No application under section 11 or 12 shall be filed, unless- (a) the applicant is an "agriculturist" on the date of the application, and (b) the mortgagor was an "agriculturist" at the time of the mortgage. (2) In cases in which the status of a mortgagor as "agriculturist" on the date of mortgage is at issue and no documentary evidence is forthcoming to prove it, the status of the mortgagor on that date shall be determined with reference to the entries in the record-of-rights or the annual registers prepared under the Land Revenue Act, 1901, of the year nearest to the year of mortgage for which they exist WR 147]. 1. Repeated by Section 27 (1) of U.P. Act XIII of 1940 except in its application to

mortgages made before the commencement of the Act.

### **25. Bar Of Suit :-**

1[No suit shall be brought in any court for any relief which can be obtained by an application under this chapter. 1. Repealed by section 27 (1) of U.P. Act XIII of 1940 except in its application to mortgages made before the commencement of that Act.

### **26. Limitation And Procedure :-**

1[(1) The limitation for making an application for redemption under this chapter shall be the same as that provided in the Indian Limitation Act, 1908, for a suit for redemption. (2) The Limitation for filing appeals and for execution of orders under Chapter III shall be the same as that prescribed by law respectively for appeals under the Code of Civil Procedure, 1908, and for decrees passed by Civil Courts. (3) The provisions of sections 6, 7, 8, 19 and 21 of the Indian Limitation Act, 1908, shall apply to applications under this chapter and the provisions of section 5 of the said Act shall apply to appeals under this chapter. 1. Repealed by section 27 (1) of U.P. Act XIII of 1940 except in its application to mortgages made before the commencement of that Act.

### **27. Applicability Of The Code Of Civil Procedure To Proceedings Under This Chapter :-**

1[The provisions in the Code of Civil Procedure, 1908, in regard to suits shall be followed, so far as they can be made applicable, to all proceedings under this chapter, and all orders passed under this chapter shall be executed in the manner prescribed for execution of Civil Court decrees. 1. Repealed by section 27 (1) of U.P. Act XIII of 1940 except in its application to mortgages made before the commencement of that Act.

## **CHAPTER 4**

### **RATES OF INTEREST**

### **28. Rate Of Interest On Loans Taken After The Passing Of This Act Above Which The Debtor Is Not Liable To Pay :-**

1[(1) Notwithstanding anything in any contract to the contrary, no loan taken by an agriculturist after this Act comes into force shall bear interest at a rate higher than that notified by the 2[State Government]. (2) As soon as possible after the rate of interest at which the 3[Central Government] will lend money to the 2[State Government] is announced from time to time, the 2[State Government] shall notify 4 in the 5[Official Gazette] and shall publish in such other manner as it think proper, the rates which

shall be the prevailing rates of interest on secured and unsecured loans of the various classes mentioned in Schedule II contracted during the period such prevailing rates shall remain in force. Such prevailing rates shall come into force from such date as may be notified by the 2[State Government] and shall remain in force until superseded by new rates. (3) Such prevailing rates as are referred to in sub-section (2) shall be fixed at the percentage rates specified for different classes of loans in Schedule II above the rate of interest at which the 2[State Government] borrows from 3[Central Government.] 1. Repealed by section 27 (1) of U.P. Act XIII of 1940 except in its application to mortgages made before the commencement of that Act. 2. Substituted by the ALO 1950 for "Provincial Government." 3. Substituted by the ALO 1937. 4. See Notification No 2677-IV, dated, Jan. 7, 1936, in Gaz., 1936, Pt. I, p.3. 5. Substituted for "Gazette" by the ALO 1937.

**29. Benefit For Prompt Payment Of Loans Taken After The Passing Of This Act :-**

1[If an unsecured loan taken after the date on which this Act comes into force, is, if it is not a loan for fixed term, repaid within two years of the date of the taking of the loan, or, if it is a loan for a fixed period, is repaid within such period, the debtor shall not be liable to pay interest at a rate higher than the prevailing rate of interest for a secured loan of the same class in force at the time the loan was taken. 1. Repeated by Section 27 (1) of U.P. Act XIII of 1940, except in its application to advances made before the first day of June, 1940, not being loans as defined in that Act.

**30. Rate Of Interest On Undecreed Loans Taken Before This Act Came Into Force For The Period After January 1, 1930 :-**

1[(1) Notwithstanding anything in any contract to the contrary no debtor shall be liable to pay interest on a loan taken before this Act comes into force at a rate higher than that specified in Schedule II for the period from January 1, 1930, till such date as may be fixed by the 2[State Government] in the 3[Official Gazette] in this behalf. (2) If a decree has already been passed on the basis of a loan and remains unsatisfied in whole or in part, the Court which passed the decree shall on the application of the judgment-debtor amend it by reducing, in accordance with the provisions of sub-section (1), the amount decreed on account of interest. (3) A decree amended in accordance with the provisions of sub-section (2) shall be deemed to bear the date of the original decree, and, notwithstanding any provision in any law to the contrary, no appeal



shall lie from any order amending a decree under that sub-section. (4) Any amount already received by the creditor on account of interest in excess of that due under this section shall be credited towards the principal ; but nothing in this section shall be deemed to entitle a debtor to claim refund of any part of the interest already paid by him. 1. Repeated by Section 27 (1) of U.P. Act XIII of 1940, except in its application to advances made before the first day of June, 1940, not being loans as defined in that Act. 2. Substituted by the ALO 1950 for "Provincial Government." 3. Substituted for "Gazette" by the ALO 1937.

### **31. Rate Of Interest On Loans Taken After This Act Came Into Force After The Aggregate Of Interest Has Reached 100 Per Cent Of The Sum Borrowed :-**

1[(1) Notwithstanding anything in any contract to the contrary no loan taken after this Act comes into force shall bear interest at a rate higher than that specified in Schedule IV, calculated on the sum originally borrowed or such part of it as has not already been repaid after a sum equal to the sum originally borrowed has been realized or has accrued at the contractual rate on account of interest on such loan. (2) Any amount already received by the creditor on account of interest in excess of that due under the provisions of this section shall be credited towards principal ; but nothing in this section shall be deemed to entitle a debtor to claim refund of any part of the interest already paid by him. 1. Repeated by Section 27 (1) of U.P. Act XIII of 1940, in its application to advances made before the first day of June, 1940 not being loans as defined in that Act.

#### **CHAPTER 5**

#### **MAINTENANCE OF ACCOUNTS**

### **32. Duty Of Creditor To Maintain And Furnish Accounts :-**

(1) A creditor shall, after the date on which this Act comes into force, -- (a) regularly record and maintain a correct for each agriculturist debtor of all transactions relating to each loan advanced to that debtor, in such manner as the 1[State Government] may prescribe; and (b) supply each agriculturist debtor every year with a full and correct statement of account signed by the creditor or his agent of any balance or amount that may be outstanding against such debtor on account of each separate loan on such date as the 1[State Government], may prescribe in this behalf. Such statement of account shall include all transactions entered into during the year to which the statement

relates, and shall contain such details and particulars as the 1[State Government] may prescribe. It shall be supplied to the debtor within one month of the aforesaid date in such form and in such manner as the 1[State Government] may prescribe: Provided that, where there is a current account, it shall be sufficient for the creditor for the purposes of clause (a) to keep one account of all transactions relating thereto, and for the purposes of clause (b) to furnish particulars of the balance due on the whole account. (2) A person to whom a statement of account has been submitted under sub-section (1) shall not, be bound to acknowledge or deny its correctness, and his failure to protest shall not, by itself, be deemed to be an admission of correctness of the account. (3) The account prescribed under sub-section (1) (a) shall be deemed to be regularly kept in the course of business for the purposes of the section 34, Indian Evidence Act, 1872, and copies of entries in such account certified in such manner as may be prescribed shall be admissible in evidence for any purpose in the same manner and to the same extent as the original entries. 1. Substituted. by A.L.O. 1950 for "Provincial" Government".

### **33. Suit By Debtor For Account Of Money Lent :-**

(1) An agriculturist-debtor may sue for an account of money lent or advanced to, or paid for him by any person, or due by him to any person as the price of goods or on a written or unwritten engagement for the payment of money and of money paid by him to such person. (2) In such suit the Court shall 1[allow only such interest as may be permissible under the law applicable to the agriculturist debtor]. It shall, after taking necessary accounts, declare the amount which is still payable by the plaintiff to the defendant, and shall on the application of the defendant, and if the money is payable, pass a decree in favour of the defendant. 2[(3) Notwithstanding anything in the Court Fees Act, 1870, the Court-fee payable on a plaint in a suit under sub-section (1) shall be that prescribed by Schedule VI; and the fee payable on an application under sub-section (2) shall be the amount, if any, by which the fee which would be payable on a plaint in a suit for the recovery of the amount declared under that sub-section exceeds the fee already paid by the plaintiff on his plaint, or the fee prescribed by Article 1 (b) of Schedule II of the Court Fees Act, 1870, whichever is greater: Provided that if the plaintiff is a person who belongs to any of the class of persons mentioned in clause (h) of sub-section (2) of section 2 or is a person who pays rent not exceeding Rs. 200

or land revenue not exceeding Rs. 100, or pays both rent and land revenue the total amount of which does not exceed Rs. 150, but does not in any case pay income-tax, the court-fee payable by the defendant on an application under sub-section (2), or by the plaintiff under sub-section (4), shall be half of the amount prescribed by this sub-section or by sub-section (4), as the case may be. (4) 3[\* \* \*] 1. Substituted by U.P. Act XIII of 1940. 2. Added by U.P. Act IX of 1937. 3. Deleted by U.P. Act XIII of 1940.

#### **34. Penalty For Non-Compliance With The Provisions Of Section 24 :-**

Notwithstanding anything contained in any other enactment for the time being in force, -- (a) in any suit or proceeding relating to a loan against an agriculturist, if the debtor objects that the creditor has not complied with the provisions of section 32, the Court shall determine such objection before deciding the claim on the merits; (b) if the Court finds that the provisions of clause (a) of section 32 (1) have not been complied with by the creditor, it may, if the creditors claim is established in whole or in part, disallow the whole or a portion of the interest found due, as it may deem reasonable in the circumstances of the case, and shall disallow the creditors costs; (c) if the Court finds that the provisions of clause (b) of section 32 (1) have not been complied with by the creditor, the Court shall in computing the amount of interest due upon the loan exclude every period for which the creditor has failed to comply with the said provisions: Provided that if the creditor has, after the time prescribed in the said clause, furnished the account and satisfies the Court that he had sufficient cause for not furnishing it earlier, the Court shall, notwithstanding such omission, include any such period or periods for the purpose of computing the interest: Provided further, that if the creditor has submitted an account which is not full and correct, and satisfies the Court that the omission or error was bona fide and due to inadvertence, the Court shall, notwithstanding such omission or error, include any such period or periods for the purposes of computing the interest. Explanation. -- A person who has kept his account and submitted his yearly statement of account in the form and manner prescribed in clauses (a) and (b) of subsection (1) of Section 32 shall be held to have complied with the provisions of these clauses, in spite of any errors and omissions, if the Court finds that the errors and omissions were accidental and not material and that the accounts have been kept in good faith with the intention of complying with

the provisions of these clauses.

**35. Penalty For Entering In Books Of Accounts A Sum Larger Than That Actually Lent And For Not Giving Receipts :-**

(1) Any creditor who after the commencement of this Act, records in his books of accounts or in the statement of account submitted to the debtor as lent to an agriculturist a sum larger than that actually lent, whether by way of charges for expenses, inquiries, fines, bonuses, premia, renewals, or otherwise, shall be punished for the first offence with fine which may extend to one hundred rupees, and, for a second or subsequent offence with regard to the same or any other agriculturist, with fine which may extend to five hundred rupees. (2) Where in any suit concerning a loan taken by an agriculturist the Court finds that the creditor has, without reasonable cause, refused or neglected to deliver to the debtor a receipt for any payment by him on account of such loan or to credit such payment on the written instrument securing such loan, it may award the debtor such compensation not exceeding double the amount of such payment as it may consider proper.

**36. Saving In Cases Of Previous Loans :-**

The provisions of sections 32, 34 and 35 shall not, in the case of a loan advanced before the commencement of this Act, apply to the period prior to the commencement of this Act.

**SCHEDULE 1**

**SCHEDULE I**

The classes mentioned in section 2 (2) (h)

Agricultural labourers, general labourers, cowherds, goatherds, dairymen, blacksmiths, carpenters, fishers, hunters, boatmen, barbers, tanners, and leather workers, scavengers, basket-makers, potters, midwives, watchmen, washermen, weavers or other servants of the village community or any similar class of persons whom the<sup>2</sup>[State Government] may, by notification in the <sup>3</sup>[Official Gazette], from time to time included in this schedule.

1. Repeated by Section 27 (1) of U.P. Act XIII of 1940 made by the Governor in exercise of the powers assumed by him under section 93 of the G. of I. Act 1935, except in its application to advances made before the first day of June, 1940, not being loan as defined in that Act.

2. Substituted by the A.L.O. 1950 for "Provincial Government" which had been Substituted by the A.L.O. 1937 for "Local Government."

3. Substituted for "Gazette" by the ALO 1937.

**SCHEDULE 2**

**SCHEDULE II**

Percentage rates mentioned in section 28 by which the prevailing rate of interest

should exceed the percentage rate at which the 2[State Government] borrow from the3[Central Government]

| Amount of loan              | Secured loans                                  |                            | Unsecured loans                                |                           |
|-----------------------------|------------------------------------------------|----------------------------|------------------------------------------------|---------------------------|
|                             | Compound per cent. per annum with yearly rests | Simple per cent. per annum | Compound per cent. per annum with yearly rests | Simple percent, per annum |
| (a) Rs. 500 and under...    | 3                                              | 5½                         | 7½                                             | 10½                       |
| (b) Rs. 501 to 5,000...     | 2½                                             | 4½                         | 6                                              | 8                         |
| (c) Rs. 5,001 to Rs. 20,000 | 2                                              | 3½                         | 4½                                             | 6½                        |
| (d) Over Rs. 20,000         | 1½                                             | 2½                         | 3½                                             | 5                         |

1. Repealed by Section 27 (1) of U.P. Act XIII of 1940 made by the Governor in exercise of the powers assumed by him under section 93 of the G. of I. Act 1935, except in its application to advances made before the first day of June, 1940, not being loan as defined in that Act.

2. Substituted by the A.L.O. 1950 for "Provincial Government" which had been substituted by the A.L.O. 1937 for "Local Government."

3. Substituted for (Government of India) by the ALO 1937.

### SCHEDULE 3

#### SCHEDULE III

| Rates of interest for section 30 |                                                |                            |                                                |                            |
|----------------------------------|------------------------------------------------|----------------------------|------------------------------------------------|----------------------------|
| Amount of loan                   | Secured loans                                  |                            | Unsecured loans                                |                            |
|                                  | Compound per cent. per annum with yearly rests | Simple per cent. per annum | Compound per cent. per annum with yearly rests | Simple per cent, per annum |
| (a) Rs. 500 and under...         | X=2½                                           | X = 5                      | X=5½                                           | X=9½                       |
| (b) Rs. 501 to 5,000...          | X=2                                            | X = 4                      | X=4½                                           | X=7½                       |
| (c) Rs. 5,001 to Rs. 20,000      | X=1½                                           | X = 3                      | X=3½                                           | X=6½                       |
| (d) Over Rs. 20,000 ...          | X=1                                            | X = 2                      | X=2½                                           | X=4½                       |

Note- X in this schedule means-

(a) For the period from January 1, 1930, or the date on which the loan was taken, whichever was later, till the first date notified under section 4, a rate of 4.1/4.

(b) For the period from the first date notified under section 4 till the date fixed by the 2[State Government] as the final date to which section 30 shall apply 3[the rate for the time being notified under section 4 in respect of the period for which each such rate is in force ] or 4 1/4 whichever is less.

1. Rep. by Section 27 (1) of U.P. Act XIII of 1940 made by the Governor in exercise of the powers assumed by him under section 93 of the G. of I. Act 1935, except in its application to advances made before the first day of June, 1940, not being loan as defined in that Act.

2. Substituted by the ALO 1950 for "Provincial Government" which had been substituted, by the ALO. 1937 for "Local Government".

3. Substituted. for the words "the rate notified under section 4 as the rate in force on the date the loan was taken" by U.P. Act III of 1935.

#### SCHEDULE 4

#### SCHEDULE IV

Rates of interest mentioned in section 31

Simple interest at the rate notified under section 4 as in force at the time when the aggregate of interest realized or accrued becomes equal to the sum originally borrowed in the case of secured loans, and 2 per cent. above the rate in the case of unsecured loans.

#### SCHEDULE 5

#### SCHEDULE V

Scale mentioned in section 40

| Amount or value of the bond                                               | Stamp duty |    | Registration fee |    | Copying fee |     |
|---------------------------------------------------------------------------|------------|----|------------------|----|-------------|-----|
|                                                                           | Rs.        | P. | Rs.              | P. | Rs.         | P.  |
| Where the amount or value secured does not exceed Rs. 50.                 | 0          | 6  | 0                | 6  | 0           | 19  |
| Where it exceeds Rs. 50 but does not exceed Rs. 100.                      | 0          | 12 | 0                | 12 | 0           | 19  |
| Where it exceeds Rs. 100 but does not exceed Rs. 200.                     | 0          | 25 | 0                | 25 | 0           | 25  |
| Where it exceeds Rs. 200 but does not exceed Rs. 300.                     | 0          | 37 | 0                | 37 | 0           | 37  |
| Where it exceeds Rs. 300 but does not exceed Rs. 400.                     | 0          | 50 | 0                | 50 | 0           | 50  |
| Where it exceeds Rs. 400 but does not exceed Rs. 500.                     | 0          | 75 | 0                | 75 | 0           | 62  |
| Where it exceeds Rs. 500 but does not exceed Rs. 600.                     | 1          | 62 | 2                | 25 | 0           | 75  |
| Where it exceeds Rs. 600 but does not exceed Rs. 700.                     | 2          | 0  | 2                | 25 | 0           | 75  |
| Where it exceeds Rs. 700 but does not exceed Rs. 800.                     | 2          | 37 | 2                | 25 | 0           | 75  |
| Where it exceeds Rs. 800 but does not exceed Rs. 900.                     | 2          | 75 | 2                | 25 | 0           | 75  |
| Where it exceeds Rs. 900 but does not exceed Rs. 1,000.                   | 3          | 12 | 2                | 25 | 0           | 75  |
| For every Rs. 250 or part of Rs. 250 above Rs. 1,000 and up to Rs. 3,000. | 1          | 0  | 0                | 25 |             | Nil |

1. Substituted by U.P. Laws replacement of references to old coinage by New Decimal Coinage Act XX of 1963, vide the Schedule, item No. 8.

#### SCHEDULE 6

#### SCHEDULE VI

Schedule of court-fees payable on a plaint under section 33

|                                                                                            | <b>Rs.</b> | <b>P.</b> |
|--------------------------------------------------------------------------------------------|------------|-----------|
| If the principal amount of loan is less than Rs. 100...                                    | 2          | 00        |
| If the principal amount of loan is not less than Rs. 100 but is less than Rs. 250 ... ..   | 5          | 00        |
| If the principal amount of loan is not less than Rs. 250                                   |            |           |
| but is less than Rs. 500 ... ..                                                            | 7          | 50        |
| If the principal amount of loan is not less than Rs. 500 but is less than Rs. 1,000 ... .. | 10         | 00        |
| If the principal amount of loan is Rs. 1000 or above ...                                   | 15         | 00        |

1. Substituted by U.P. Laws replacement of references to old coinage by New Decimal Coinage Act XX of 1963, vide the Schedule, item No. 8.