

Government Demands Act, 1308F

MAHARASHTRA

India

Government Demands Act, 1308F

Act 4 of 1308

- Published on 1 January 1308
- Commenced on 1 January 1308
- [This is the version of this document from 1 January 1308.]
- [Note: The original publication document is not available and this content could not be verified.]

Government Demands Act, 1308F(Hyderabad Act No. 4 of 1308F.)(Received the assent of the Madarul Moham on the 14th Ardebehisht, 1308F.)Whereas it is expedient to facilitate the recovery of certain Government demands;It is hereby enacted as follows :-

1. Short title, local extent and commencement.

- This [Act] [Published in the Jarida, dated 23rd Ardebehisht, 1308 F.] may be called the Government Demands Act, and shall come into force in the [Hyderabad area of the State of [Maharashtra] [Substituted by A. O., 1956.] on the 1st Kurdad, 1308 Fasli]. But nothing herein contained shall apply to the special orders issued before the passing of this Act, and to the recovery of land revenue and any sum in respect of which an express provision that it shall be recovered as land revenue is made in any law.

2. Particulars of demands recoverable by this Act.

- In the following cases proceedings may be taken under this Act, unless there is any other law in force, -(a)When there is any debt, or any sum recoverable from any person by the [Government] [As amended by Act No. III of 1308 F.] under the express provision of any law, or any rules, or under an order issued as a rule before the passing of this Act;(b)When there is any security money recoverable by the [Government] [As amended by Act No. III of 1308 F.] from any lease-holder, contractor, purchaser at auction, or Government servant, or from his surety;(c)When there is recoverable from any person any sum in respect of which such person has made an agreement with the [Government] [As amended by Act No. III of 1308 F.] in writing that the [Government] [As amended by Act No. III of 1308 F.] may recover it under the provisions of this Act;Explanation. - In this section the word "debt" includes only the sum advanced as loan by the [Government] [As amended by Act No. III of 1308 F.] to any person or towards the payment of any person's debt with his consent before the passing of this Act.

3. Preparation of memorandum.

- When there is recoverable from any person any sum of the nature mentioned in section 2, the [Collector] [Substituted by A. O., 1956.] of the District in which such person resides or in which such sum is recoverable shall prepare a memorandum in the form set forth in the First Schedule specifying the reasons therefor and shall sign it and affix the office seal to it. Such memorandum shall be deemed to be a decree by a Court against that person in favour of the [Government] [Substituted by A. O., 1956.]. The [Collector] [Substituted by A. O., 1956.] may recover the demand mentioned in the memorandum in accordance with the procedure relating to the execution of decrees, and shall be deemed to be a Court for the purposes of the recovery proceeding; and all provisions relating to the proceedings in the passing of decrees shall apply to such proceeding.

4. Copy of memorandum to be sent to defaulter.

(1)After a memorandum referred to in section 3 has been prepared a copy thereof shall, through a notice in the form set forth in the Second Schedule, be sent to the person from whom the sum is recoverable. But such memorandum shall not be executed until two months from the date of service of the notice, or, if an objection has been filed, until such objection has been determined. But if the [Collector] [Substituted by A. O., 1956.] is satisfied by a statement on oath or evidence that such person intends to transfer or encumber his property with a view to prevent or delay the realisation of the Government demand, he may, before the expiry of the prescribed period or the determination of the objection, attach his property, after recording the reasons therefor, in the manner in which attachment is affected before judgment.(2)If no property belonging to such person is situate within the local limits of jurisdiction of the [Collector] [Substituted by A. O., 1956.] who has prepared the memorandum such memorandum shall be sent for execution to the [Collector] [Substituted by A. O., 1956.] of the District within the local limits of whose jurisdiction any property belonging to such person is situate. Such [Collector] [Substituted by A. O., 1956.] may execute such memorandum in the same manner as if he himself had prepared it.

5. Objection regarding memorandum.

- After service of notice as also before such service if the person in any way be informed of the preparation of a memorandum, he shall file his objection before the [Collector] [Substituted by A. O., 1956.] who has prepared the memorandum. The [Collector] [Substituted by A. O., 1956.] shall, after hearing the objection and taking such evidence as may be produced by such person and making necessary inquiry, pass an order for the memorandum to stand or to be modified or set aside, and for the costs of the inquiry. The [Collector] [Substituted by A. O., 1956.] shall, for the summoning of witnesses and for making inquiry, have all the powers which a Civil Court has in civil suits in respect of such matters.

6. [Suit in a Civil Court for setting aside memorandum or order. [Substituted by A. O., 1956.]

- If such person is aggrieved by such order, he may institute a suit against the Government, in the Court of District Judge for setting aside the order or for the refund of the amount realised in execution of the memorandum or (if an order is passed within one year from the date of the objection) within one year from the date of order setting aside the memorandum or of the memorandum or of the realisation (as the case may be), and the Court may pass such orders as it may deem proper and may at any time before the execution of the memorandum or order, order the execution to be stayed subject to the same conditions as would apply to an Appellate Court in appeal regarding the staying of execution of judgment under appeal.]

7. [Procedure for the recovery of Government demands also applicable to Sarf-i-khas demands. [Amended by Act No. III of 1322 F.]

- The procedure for the recovery of Government demands, laid down in the foregoing sections, shall also apply to such demand of the Sarf-i-khas as are of the nature specified in section 2.]The First Schedule(See section 3)I,, [Collector] [Substituted by A. O., 1956.] of District, declare by this memorandum that the following Government demand is recoverable from son of resident ofParticulars of the demand :-The above mentioned sums are recoverable under the Government Demands Act.Signature of [Collector] [Substituted by A. O. 1956.] of the District.(Official Seal)The Second Schedule(See section 4)From :The Office of the [Collector] [Substituted by A. O., 1956.] of..... district dated 13 F.To..... son of.....resident of.....A memorandum for Government demand prepared by the [Collector] [Substituted by A. O., 1956.] of District, datedF. ...corresponding to 13 H., is sent to you with this notice, and within two months from the date of receipt of this notice, you are required to pay the demand shown in the said memorandum or to file any objection to such payment; otherwise, after the expiry of the said period, recovery proceedings will be taken under section 4.Signature of [Collector] [Substituted by A. O., 1956.] of the District.(Official Seal)