

The Provincial Insolvency (Karnataka Extension And Amendment) Act, 1962

KARNATAKA

India

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Act 07 of 1963

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The Provincial Insolvency (Karnataka Extension And Amendment) Act, 1962. Act No. 7 of 1963 An Act to extend the Provincial Insolvency Act, 1920 (Central Act V of 1920) to the whole of the State of Karnataka, and further to amend it in its application to the State. WHEREAS it is expedient to extend the Provincial Insolvency Act, 1920 (Central Act V of 1920) to the whole of the State of Karnataka, and further to amend it in its application to the State of Karnataka; BE it enacted by the Karnataka State Legislature in the Thirteenth Year of the Republic of India as follows :-

1. Short title, extent and commencement.-

(1) This Act may be called the Provincial Insolvency (Karnataka Extension and Amendment) Act, 1962. (2) It shall extend to the whole of the State of Karnataka. (3) It shall come into force on such date as the State Government may, by notification, in the official Gazette, appoint.

2. Repeal of certain Bombay Acts.-

(1) The Presidency Towns Insolvency and the Provincial Insolvency (Bombay Amendment) Act, 1939 (Bombay Act XV of 1939), and the Provincial Insolvency (Bombay Amendment) Act, 1948 (Bombay Act LXVIII of 1948), are hereby repealed. (2) As from the date appointed under sub-section (3) of section 1, the amendments made by the Acts repealed by sub-section (1), (hereinafter in this section referred to as the repealed Acts) shall cease to continue and shall be omitted from the Provincial Insolvency Act, 1920 (Central Act V of 1920) and such of the provisions thereof as were affected by the repealed Acts shall stand revived to the extent to which they would have otherwise continued in operation but for the passing of the repealed Acts and after such revival, the amendments made to the principal Act by this Act shall become operative : Provided that in respect of provisions which

cease to continue by virtue of this section but are re-enacted by this Act, the provisions of section 6 and 24 of the Karnataka General Clauses Act, 1899 (Karnataka Act III of 1899) shall be applicable as if the said provisions had been repealed and re-enacted by this Act.

3. Extension of Central Act V of 1920 to the whole of the State of Karnataka.-

The Provincial Insolvency Act, 1920 (Central Act V of 1920), (hereinafter referred to as the principal Act) as amended by this Act, is hereby extended to, and shall be in force in the whole of the State of Karnataka.

4. Amendment of section 1 of Central Act V of 1920.-

In sub-section (2) of section 1 of the principal Act, after the expression "except the territories which immediately before the 1st November 1956, were comprised in Part B States", the expression "other than the territories specified in clause (a) and clause (c) of sub-section (1) of section 7 of the States Reorganisation Act, 1956 (Central Act 37 of 1956)" shall be added.

5. Amendment of section 6 and 79 of Central Act V of 1920 and insertion of new section 6A therein.-

In the principal Act,-(a)in section 6, after clause (h) the following new clause shall be inserted, namely :-"(i) if, after a creditor has served an insolvency notice on him under this Act 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, either comply with the requirements of the notice or satisfy the Court that 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".(b)after section 6, the following new section shall be inserted, namely:-"6A. Insolvency notice.- (1) An insolvency notice under this Act shall be in the prescribed form and shall be served in the prescribed manner. It 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, or to satisfy the court that he has a counterclaim 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 setup in the suit or proceeding in which the decree or order was made against him and shall state the consequences of non-compliance with the notice.(2)Such notice shall not be invalidated by reason only that the sum specified in the notice as the amount due 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 notice on the ground of such mis-statement ; but if the debtor does not give such notice, he shall be deemed to have complied with the insolvency notice, if within the time allowed he takes such steps as would have constituted a compliance with the notice had the actual amount due been correctly specified therein." and(c)in sub-section (2) of section 79, after clause (a), the following clause shall be inserted, namely :-"(aa) the form of insolvency notice and the manner in which it may be served ;"

6. Repeal of Mysore Act XI of 1925 and Hyderabad Act VIII of 1351F.-

(1)The Mysore Insolvency Act, 1925 (Mysore Act XI of 1925), as in force in the Mysore Area and the Hyderabad Insolvency Act 1351F (Hyderabad Act VIII of 1351-F) as in force in the Gulburga Area are hereby repealed :Provided that section 6 of the Karnataka General Clauses Act, 1899 (Karnataka1 Act III of 1899), shall be applicable in respect of such repeal and section 8 and section 24 of the said Act shall be applicable as if the said enactments, had been repealed and re-enacted by this Act.(2)Notwithstanding anything contained in sub-section (1), all appeals, applications and other proceedings pending in the High Court on the date of commencement of this Act shall be disposed of in accordance with the provisions of the principal Act as amended by this Act, and for this purpose a revision petition pending under sub-section (3) of section 75 of the Mysore Insolvency Act, 1925, may be converted into an appeal with the leave of the High Court under sub-section (3) of section 75 of the principal Act.