

Bihar Debt Relief Act, 1976

JHARKHAND

India

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Act 10 of 1977

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Bihar Debt Relief Act, 1976 Act 10 of 1977 Published in Bihar Gazette, (Extraordinary) No. 131, dated 22nd January, 1977. An Act to provide for relief from indebtedness to the small and marginal farmers, rural artisans and agricultural labourers. Be it enacted by the Legislature of the State of Bihar in the Twenty Seventh year of Republic of India as follows:-

1. Short title and commencement.

(1) This Act may be called the "Bihar Debt Relief Act, 1976". (2) It shall come into force at once.

2. Definitions.

- In this Act unless the context otherwise requires-(a) "Debt" means all liabilities to a money-lender in cash or kind, secured or unsecured, payable under a decree or order of a Civil Court or otherwise including any transaction which is in substance a debt, and subsisting on the date of the commencement of this Act whether due or not due; (b) "Scheduled debtor" means a person who is a small farmer, or a marginal farmer, or a rural artisan, or an agricultural labourer, who is ordinarily resident in the State of Bihar; (c) "Small farmer" means a farmer who owns land measuring not more than two acres of irrigated land or four acres of unirrigated land: Provided that for a small farmer belonging to any of the Scheduled Tribes the maximum area of land to be owned and cultivated for the purposes of this Act will be four acres of irrigated land or eight acres of unirrigated land; (d) "Marginal farmer" means a farmer who owns land measuring not more than one acre of irrigated land or two acres of unirrigated land: Provided that for a marginal farmer belonging to any of the Scheduled Tribes, the maximum area of land to be owned and cultivated for the purposes of this Act will be two acres of irrigated land or four acres of unirrigated land; (e) "Rural artisan" is a person who does not hold 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 practising a craft either by his own labour or by the labour of the members of his family in the rural area, and

whose annual income does not exceed Rs. 2,400;(f)"Agricultural labourer" is a person who follows any one or more of the following agricultural operations in the capacity of a labourer on hire or exchange, whether paid in cash in kind or partly in cash and partly in kind and who does not hold more than one acre of irrigated or two acres of unirrigated land and whose annual income does not exceed Rs. 2,400:-(i)farming including cultivation all tillage of soil etc.,(ii)dairy farming,(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 operations for market and delivery to storage to carriage for transportation of farm production;(g)"Bank" means-(i)banking company as defined in the Banking Regulation Act, 1949;(ii)the State Bank of India constituted under the State Bank of India Act., 1955;(iii)Subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959;(iv)a corresponding new Bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;(v)the Agricultural Refinance Corporation, constituted under the Agricultural Refinance Corporation Act, 1963;(vi)the Agricultural Finance Corporation, a Company incorporated under the Companies Act, 1956; and(vii)any other financial institution notified by the State Government in the Official Gazette as a bank for the purpose of this Act;(h)"Civil Court" means and includes-(i)any court exercising jurisdiction under the Provincial Insolvency Act, 1920 (Act V of 1920);(ii)a Gram cutchery established under the Bihar Panchayat Raj Act, 1947 (Bihar Act VII of 1948);(iii)a court exercising powers under the Provincial Small Cause Courts Act, 1887 (Act IX of 1887);(i)"Co-operative Society" means a society registered or deemed to have been registered under the provisions of the *Bihar and Orissa Cooperative Society Act, 1935 (B. & O. Act VI of 1935); and(j)"Money lender" means a money-lender as defined in section 2 of the Bihar Money Lenders Act, 1974 (Bihar Act XXII of 1975).

3. Discharge of debts of Scheduled debtors and consequences of such discharge.

(1)Notwithstanding anything contained in any other law for the time being in force or in any contract or other instrument having force of law by virtue of any such law and save as otherwise expressly provided by section 5 of this Act, every debt incurred by a Scheduled debtor before the commencement of this Act including the amount of interest, if any, payable on such debt shall be deemed to have been wholly discharged; and-(a)no such debt due from a Scheduled debtor shall be recoverable from him or from any movable or immovable property belonging to him, nor shall any such property be liable to be attached or sold or be proceeded against in any manner in the execution of any decree or order relating to such debt;(b)no Civil Court shall entertain any suit or proceeding against a Scheduled debtor for the recovery of such debt or any portion thereof or any interest due thereon:Provided that where a suit or proceeding is instituted jointly against a Scheduled debtor and any other person, nothing in this Clause shall apply to the maintainability of a suit or proceeding so far as it relates to such other person;(c)all suits and proceedings (including appeals, revision proceeding in execution and attachment), pending on the date of commencement of this Act for the recovery of any such debt or interest due thereon against a Scheduled debtor shall abate:Provided that where a suit or proceeding is pending jointly against a Scheduled debtor and any other person it shall not abate in so far as the claim against such other person is

concerned: Provided further that if a sale in an execution proceeding against a Scheduled debtor has been confirmed before the commencement of this Act a proceeding to give effect to the sale shall be neither barred nor shall it abate. (d) every Scheduled debtor undergoing detention in a civil prison in execution of any decree for money passed against him by a Civil Court in respect of any such debt shall be released; and (e) every property pledged by a Scheduled debtor shall on the commencement of this Act stand released in favour of such debtor, and the creditor shall be bound to return the same to the debtor forthwith. (2) Nothing in this section shall be construed to entitle any Scheduled debtor for refund of any part of a debt already repaid by him or recovered from him before the commencement of this Act. (3) The State Government if it considers necessary for the purpose of liquidation of rural indebtedness in stages may from time to time, by notification in the Official Gazette, impose a moratorium on debts or scale down debts in favour of persons other than the Scheduled debtors and may prescribe by rules procedure for scaling down of such debts in favour of such persons.

4. Agreement for working as labourer in lieu of debt to be void.

- An agreement, whether entered into before or after the commencement of this Act where under a Scheduled debtor or any member of his family is required to work as a labourer or otherwise in lieu of a debt shall be void and any such custom or tradition shall cease to prevail.

5. Certain debts and liabilities not to be affected.

- Nothing in this Act shall affect debts and liabilities of any Scheduled debtor under the following heads, namely:-(a) any liability in respect of maintenance whether under a decree of court or not;*(b) any debt due to-(i) the Central Government or any State Government; (ii) any Local authority; (iii) any bank as defined in clause (g) of section 2; (iv) the Agricultural Refinance Corporation Limited, a Company incorporated under the Refinance Corporation Act, 1963. (v) any rent due in respect of any property let out to a debtor; (vi) any liability arising out of breach of trust or any torturous liability; (vii) any liability in respect of wages or remuneration due as salary or otherwise for services rendered; (viii) any debt which represents the price of goods purchased by a debtor; and (ix) any other financial institution as may be notified by the State Government in the Official Gazette.

6. Penalties.

- If any person wilfully contravenes any provision of this Act, or of any rule made thereunder or fails to comply with any lawful order made thereunder or contravenes any such order, such person shall be punished with imprisonment of either description which may extend to two years or with fine which may extend to two thousand rupees or with both: Provided that no court shall take cognizance of any offence under this section except with the previous sanction of the Collector of the district.

7. Power of State Government to make rules.

- The State Government may make rules, not inconsistent with the provisions of this Act to carry out all or any of the purposes of this Act.

8. Power to remove difficulties.

- If within three years from the date of commencement of this Act any difficulty arises in giving effect to the provisions of this Act the State Government may, as occasion may require, by order do anything not inconsistent with the provisions of this Act which appears to them necessary for the purposes of removing the difficulty.

9. Repeal and Saving.

(1)The Bihar Scheduled Castes, Scheduled Tribes, Backward Classes (Annexure 1) and Denotified Tribes, Debt Relief Act, 1974 (Bihar Act XX of 1975) and Bihar Debt Relief Ordinance, 1976 (Bihar Ordinance no. 211 of 1976) are hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Act and Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing was done or such action was taken.