

Rajasthan Scheduled Debtors (Liquidation of Indebtedness) Act, 1976

RAJASTHAN

India

Rajasthan Scheduled Debtors (Liquidation of Indebtedness) Act, 1976

Act 23 of 1976

- Published on 13 April 1976
- Commenced on 13 April 1976
- [This is the version of this document from 13 April 1976.]
- [Note: The original publication document is not available and this content could not be verified.]

Rajasthan Scheduled Debtors (Liquidation of Indebtedness) Act, 1976(Act No. 23 of 1976)[Published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 13th April 1976.][Received the assent of the President on the 5th day of April, 1976]An Act to provide for the liquidation of indebtedness of marginal farmers, agricultural labourers and rural artisans in Rajasthan.Be it enacted by the Rajasthan State Legislature in the Twenty-seventh Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1)This Act may be called the Rajasthan Scheduled Debtors (Liquidation of indebtedness) Act, 1976.(2)It shall extend to the whole of the State of Rajasthan.(3)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 and whose annual household income from all sources does not exceed Rs. 2400/- a year:-(i)farming including cultivation and tillage of soil;(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 preparation for market and delivery to storage or to market or to carriage for transportation of farm products;(b)"agriculturist" means a person who earns his livelihood wholly or mainly, from;-(i)agriculture, or(ii)rent from agricultural land, in case he belongs to any of the categories of persons mentioned in clauses (a) to (h) of subsection (1) of Section 46 of the

Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955);(c)"civil court" includes,-(i)any court exercising jurisdiction under the Provincial Insolvency Act, 1920 as adapted by the Rajasthan Adaptation of Central Laws Ordinance, 1950 (Ordinance No. IV of 1950);(ii)a Panchayat established under the Rajasthan Panchayat Act, 1953 (Rajasthan Act XXI of 1953) and a nyaya up-samiti constituted under Section 27-B of the said Act;(iii)a court of small cause as defined in clause (1) of Section 4 of the Rajasthan Small Cause Courts Ordinance, 1950 (Ordinance No. VIII of 1950);(iv)a debt relief court established under Section 3 of the Rajasthan Relief of Agricultural Indebtedness Act, 1957 (Rajasthan Act 25 of 1957); and(v)any other court exercising appellate or revisional jurisdiction over the decisions of a civil court;(d)"co-operative society" means a society registered or deemed to be registered under the provisions of the Rajasthan Co-operative Societies Act, 1965 (Rajasthan Act 13 of 1965);(e)"debt" includes all liabilities owing to a creditor in cash or kind, secured or unsecured, payable under a decree or order of a civil court or otherwise and subsisting on the date of commencement of this Act whether due or not due;(f)"marginal farmer" means an agriculturist who holds land as a Khatedar or Ghair Khatedar tenant and cultivates it personally and also a person who cultivates land as a sub-tenant or share cropper and which, in area, does not exceed the limits specified below: -(i)0.33 hectare land under assured irrigation capable of growing atleast two crops in a year;(ii)0.50 hectare land under assured irrigation capable of growing atleast one crop in a year;(iii)1 hectare barani land in fertile zone, semi-fertile zone or hilly zone;(iv)2.67 hectares land in semi-desert zone; and(v)3.67 hectares land in desert zone;Explanation I. - Where land is held by co-tenants or by members of joint Hindu family, the area of land held by each co-tenant or each member of joint Hindu family, shall, for the purpose of this clause, be deemed to be the extent of land which would have been allotted to each co-tenant or such member of joint Hindu family if such land had been divided or partitioned, as the case may be, on the date of the commencement of this Act.II. - Land irrigated by well shall not be deemed to fall under sub-clause (i) or sub-clause (ii) but shall be deemed to fall under sub-clause (iii);(g)"proceeding" means any proceeding in a civil court started on a plaint, petition of appeal, application or otherwise;(h)"rural area" means an area which does not fall within a municipality;(i)"rural artisan" means a person whose principal means of livelihood is production or repair of traditional tools, implements and other articles or things used for agriculture or for 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 a rural area and whose annual household income from all sources does not exceed Rs. 2400/- a year;(j)"Scheduled debtor" means an agricultural labourer, a marginal farmer and a rural artisan;(k)reference to land under assured irrigation capable of growing at least two crops or one crop in a year made in clause (f) shall have the same meaning as is given to these expressions by or under the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 (Rajasthan Act 11 of 1973) and reference to various zones given in the said clause shall mean the areas of the State as specified under each such zone in the Schedule appended to the said Act; and(l)words and expressions used, but not defined, in this Act, shall have the same meanings as are assigned to them in the Rajasthan Tenancy Act, 1955 (Rajasthan Act 3 of 1955).

3. Inapplicability of the Act to certain debts and liabilities.

- The provisions of this act shall not affect the following debts and liabilities of a scheduled debtor:-(a)any rent due in respect of any property let out to a scheduled debtor;(b)any liability

arising out of breach of trust or any tortious liability;(c)any liability in respect of wages or remuneration due as salary or otherwise for services rendered to a scheduled debtor;(d)any liability in respect of maintenance whether under a decree of a court or otherwise;(e)any debt which represents the price of the goods purchased by a scheduled debtor;(f)any debt due to-(i)the Central Government or the State Government;(ii)any local authority;(iii)a banking company as defined in Section 5 of the Banking Regulation Act, 1949 (Central Act 10 of 1949), including the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955), a Subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act 38 of 1959) and a corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970);(iv)any banking institution notified by the Central Government under Section 51 of the Banking Regulation Act, 1949;(v)a co-operative society;(vi)a Government company as defined in Section 617 of the Companies Act, 1956 (Central Act 1 of 1956);(vii)the Agricultural Finance Corporation Limited, a company incorporated under the Companies Act, 1956 (Central Act 1 of 1956);(viii)the Rajasthan State Agro-Industries Corporation;(ix)a corporation or any other body corporate by whatever name called and established or constituted by any law for the time being in force; and(x)any other financial institution that may be notified by the State Government in the Official Gazette;(g)any sum recoverable as a public demand or arrears of land revenue under any law for the time being in force.

4. Liquidation of debts of the scheduled debtor.

- Notwithstanding anything contained in any other law for the time being in force or in any contract or other instrument having force by virtue of any such law, and save as otherwise expressly provided in this Act, the consequences as hereinafter set forth shall, with effect from the date of commencement of this Act, ensue namely:- (a)every debt advanced before the commencement of this act, including the amount of interest, if any, payable by a scheduled debtor to a creditor shall be deemed to be wholly discharged;(b)no such debt due from the scheduled debtor immediately before the commencement of this Act, shall be recoverable from him, or from or against any movable or immovable property, belonging to him, nor shall any such property be liable to be attached and sold or proceeded against in any manner in the execution of any decree or order relating to such debt against him;(c)no civil court shall entertain any proceeding against a scheduled debtor for the recovery of any amount of such debt, including interest, if any: Provided that where a proceeding is instituted jointly against a scheduled debtor and any other person, nothing in this clause shall apply to the maintainability of a proceeding in so far as it relates to such other person;(d)all proceedings (including appeals, revisions, attachment or execution proceedings) pending on the date of the commencement of this Act for the recovery of any debt against a scheduled debtor shall abate: Provided that nothing in this clause shall apply to the sale of-(i)any moveable property, held and concluded before the commencement of this Act;(ii)any immovable property, confirmed before such commencement:(e)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 debt shall be released. Explanation. - Nothing in this Section shall be construed to entitle any scheduled debtor to the refund of any part of a debt already repaid by him or recovered from him before the commencement of this Act.

5. Power to issue certificate.

- The Tehsildar, Naib Tehsildar and Inspector Land Records within the local limits of whose jurisdiction a debtor actually and voluntarily resides, or carries on business, or personally works for gain and such other officer or authority as may be prescribed shall be competent to issue a certificate in the prescribed form and manner certifying that the debtor is an agricultural labourer, a marginal farmer or a rural artisan.

6. Presumption and burden of proof.

- Where in any proceeding for the recovery of debt in a civil court, the debtor produces a certificate issued in his favour under Section 5, the civil court shall presume that the debtor is a scheduled debtor and the burden of proving to the contrary, shall lie on the creditor.

7. Property of scheduled debtor to be freed from mortgaged, etc.

(1) All property belonging to a scheduled debtor which was, immediately before the commencement of this Act under any mortgage, charge, lien or other incumbrances in connection with any debt owed by a scheduled debtor shall, in so far as it is relatable to such debt, stand freed and discharged from such mortgage, charge, lien or other incumbrances, and where any such property was, immediately before the commencement of this act, in the possession of the mortgages or the holder of the charge, lien or incumbrance, such property shall except where it was subject to any other charge, on such commencement, be restored to the possession of the scheduled debtor. (2) If any delay is made in restoring any property, referred to in sub-section (1), to the possession of the scheduled debtor, such debtor shall be entitled, on and from the date of such commencement, to recover from the mortgage or holder of the lien, charge or encumbrance, such mesne profits as may be determined by the civil court within the local limits of whose jurisdiction such property is situated.

8. Resumption land disposal of stayed proceedings.

- With effect from the date of commencement of this Act, the provisions of the Rajasthan Scheduled Debtors (Moratorium on Debts) Ordinance, 1975 (Ordinance No. 21 of 1975) shall cease to apply in relation to a scheduled debtor to whom this Act applies and proceedings against such scheduled debtor stayed under the said Ordinance shall upon such commencement be resumed and be disposed of by the civil court in accordance with the provisions of this Act.

9. Creditors not to accept payment against extinguished debts.

(1) No Creditor shall accept any payment against any debt which has been discharged, or is deemed to be discharged or wholly satisfied under this Act. (2) Any person who contravenes the provisions or sub-section (1) shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to two thousand rupees or with both. (3) The Court convicting any person

under sub-section 91) may, in addition to the penalties that may be imposed under that sub-section, direct such person to deposit into the Court within such period as may be specified in the order, the sum so accepted by him in contravention of sub-section (1), to be refunded to the scheduled debtor.(4)The offence under this Section shall be cognizable and bailable and may be compounded by the Scheduled debtor from whom the payment was accepted.

10. Power to make rules.

(1)The State Government may make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the forgoing power, such rules may provide for all or any of the matters which may be or are required to be prescribed under this Act.