

# The Orissa Debt Relief Act, 1980

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### Act 5 of 1981

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The Orissa Debt Relief Act, 1980 Orissa Act No. 5 of 1981 Statement of Objects and Reasons. - For liquidation of rural indebtedness, legislative measures like imposition of moratorium on recovery of loans from indigent debtors and scaling down of debts limiting the interest to an amount equal to principal have already been taken up as per guidelines issued by the Government of India pending complete redemption of loans. As a final measure for liquidation of rural indebtedness it is now felt necessary to enact the Debt Relief legislation to give relief to the weaker sections of the community by complete redemption of loans. A selective approach has been adopted to give the benefit of complete redemption of loans to small farmers, agricultural labourers and rural artisans to avoid squeezing of credit flow from non-institutional sources. The Bill seeks to achieve the above objective. Published vide Orissa Gazette Extraordinary No. 315/13.3.1981. An Act to provide for relief from indebtedness to the small farmers, rural artisans and agricultural labourers Be it enacted by the legislature of the State of Orissa in the Thirty-first year of the Republic of India, as follows :

### 1. Short title, extent and commencement.

(1) This Act may be called the Orissa Debt Relief Act, 1980. (2) It extends to the whole of the State of Orissa. (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 operations 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 who does not hold more than one standard acre of land and whose annual income does not exceed two thousand and four hundred rupees- (i) farming including cultivation and 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 preparation for market and delivery to storage or to market or to carriage for transportation of farm products;(b)"bank" means-(i)a banking company as defined in the Banking Regulation, Act, 1946 (10 of 1946);(ii)the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);(iii)a subsidiary bank as defined in the State Bank of India; (Subsidiary Banks) Act, 1959 (38 of 1959);(iv)a corresponding new Bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) ;(v)the Agricultural Refinance and Development Corporation, constituted under the Agricultural Refinance and Development Corporation Act, 1963 (10 of 1963);(vi)the Agricultural Finance Corporation, a Company incorporated under the Companies Act, 1956 (1 of 1956);(vii)a Regional Rural Bank established under the Regional Rural Banks Act, 1976 (21 of 1976) ; and(viii)any other financial institution notified by the State Government in the Official Gazette as a bank for the purposes of this Act;(c)"Civil Court" includes-(i)any Court exercising jurisdiction under the Provincial Insolvency Act, 1920 (5 of 1920); and(ii)a Court exercising powers under the Provincial Small Cause Courts Act, 1887 (9 of 1887);(d)"Co-operative Society" means a Society registered or deemed to have been registered under the Orissa Co-operative Societies Act, 1962 (Orissa Act 2 of 1963);(e)"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;Note. - A transaction unconnected with money lending is not a debt. Claims under contracts unconnected with money-lending are not covered by the Act.(f)"money-lender" means a money-lender as defined in the Orissa Money-Lenders Act, 1939 (Orissa Act 3 of 1939) ;(g)"rural artisan" means 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 two thousand and four hundred rupees ;(h)"scheduled debtor" means a person who is a small farmer or a rural artisan or an agricultural labourer and who is ordinarily resident in the State of Orissa;(i)"small farmer" means a farmer who owns land measuring not more than one standard acre and whose principal source of income is agriculture or any allied occupation ;Note. - For a person to be "a small farmer" within the meaning of the Act, it is necessary to show that his principal source of income is agriculture or any allied occupation and he should be owning land measuring not more than one standard acre. If his principal source of income is not land which he owns, he cannot take advantage of the provisions of the Act.(j)"standard acre" means a standard acre as defined in the Orissa Land Reforms Act, 1960 (Orissa Act 16 of 1960).

### **3. Discharge of debt 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, 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 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 in so far as it relates to such other person;(c)all suits and proceeding (including appeals, revisions, proceedings 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 to refund of any part of a debt already repaid by him or recovered from him before commencement of this Act.Note - The Orissa Debt Relief Act which is a special statute intends to give relief to certain classes of persons from certain classes of debts contracted by them. The relief given to a person who answers the description of a "scheduled debtor" is personal to that person and can be pleaded by him in any legal proceeding including an execution proceeding.In a suit for recovery of debt the onus is on the defendant to show that-(i)he is a "scheduled debtor" within the meaning of the Act ; and(ii)the transaction in respect of which he claims relief is connected with money-lending.

#### **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 the following categories of debts and liabilities of scheduled debtor:(a)any liability in respect of maintenance whether under a decree of a Court or not ;(b)any debt due to-(i)the Central Government or any State Government,(ii)any local authority,(iii)any bank,(iv)any Co-operative Society(c)any rent due in respect of any property let out to a debtor;(d)any liability arising out of breach of trust or any tortious liability;(e)any liability in respect of wages or remuneration due as salary or otherwise for services rendered; and(f)any debt which represents the price of goods purchased by a debtor.Note. - Debts due to Government or local authorities are not tainted with exploitation of the debtor. Exemption of these categories is reasonable.

## **6. Penalties.**

- [(1) 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, he shall be punishable with imprisonment of either description which may extend to two years or with fine which may extend to two thousand rupees or with both.(2)The State Government may confer on an Executive Magistrate, the powers of a Judicial Magistrate of the First Class or of the Second Class for trial of offences under Sub-section (1), and on such conferment of the powers, the Executive Magistrate, on whom the powers are so conferred, shall be deemed, for the purposes of the Code of Criminal Procedure, 1973 (2 of 1974), to be a Judicial Magistrate of the First Class or of the Second Class, as the case may be :Provided that no Magistrate shall take cognizance of any offence except with the previous sanction of the Collector of the District.(3)An offence under this Act may be tried summarily by a Magistrate.] [Substituted vide Orissa Gazette Extraordinary No. 346/23.2.1988-Notification No. 2692-Legislative/22.2.1988.]

## **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.**

(1)If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, do anything not inconsistent with such provisions which appears to them to be necessary or expedient for the purpose of removing the difficulty.(2)No order under Sub-section (1) shall be made after the expiration of a period of three years from the commencement of this Act.

## **9. Repeal.**

- Section 12 of the Orissa Money-Lenders (Amendment) Act, 1975 (Orissa Act 54 of 1975) is hereby repealed.