

The Rules Under Tamil Nadu Agriculturists Relief Act, 1938

TAMILNADU

India

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Rule

THE-RULES-UNDER-TAMIL-NADU-AGRICULTURISTS-RELIEF-ACT-1938 of 1938

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The Rules Under Tamil Nadu Agriculturists Relief Act, 1938 In exercise of the powers conferred by clauses (a) and (b) of sub-section (2) of section 28 of the [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order 1969.] Agriculturists Relief Act, 1938 ([Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order 1969.] Act IV of 1938), the Government of [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order 1969.] are hereby pleased to make the following rules:-

1. [] [Inserted and other rules were re-numbered by Notification G. O. No. 132, Revenue, dated the 23rd January 1941.]

For the purposes of proviso (e) to clause (ii) of section 3 of the Tamil Nadu Agriculturists Relief Act, 1938 ([Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order 1969.] Act IV of 1938), the annual rental value of any land which is not appurtenant to any building or which is occupied by or appurtenant to huts, and whose assessment is not based on the annual rental value of on the capital value shall : (i) in case the land is situated in the City of [Chennai] [Substituted for the word 'Madras' by the City of Madras (Alternation of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).] be deemed to be the value in respect of which the assessment is fixed by the Commissioner of the Corporation of Chennai under clause (b) of the proviso to section 102 of the [Chennai City Municipal Act, 1919] [Now it is renamed as Chennai City Municipal Corporation Act, 1919.] ([Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws

Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order 1969.] Act IV of 1919), with reference to the extent of the land; and (ii) in case the land is situated elsewhere in the [State of Tamil Nadu] [Substituted for the word 'State of Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order 1969.] be deemed to be 5 per cent of its capital value as determined by the Collector in the manner, laid down in the rules under sub-section (3) of section 81 of the [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order 1969.] District Municipalities Act, 1920 ([Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order 1969.] Act V of 1920).

2.

Any tenant desirous of paying into Court any amount towards the rent due or claimed to be due by him for fasli 1347 or 1346 or both, under sub-section (4) of section 15 of the Act, shall present to the Court an application in writing for the purpose. The application shall specify the name and address of the applicant, the amount of rent paid by him into Court the fasli or faslis for which it is paid and the name and address of the landholder, under-tenure holder, janmi or intermediary to whom it is to be paid. The application shall be signed and verified in the same manner as a pleading under the Code of Civil Procedure, 1908 (Central Act V of 1908).

3.

Where a tenant has paid into Court an amount which he believed to be the full amount of the rent due in respect of the holding-(i) for fasli 1347, on or before the 30th September 1938, or (ii) for fasli 1-346, on or before the 30th September 1939 and it is subsequently found by the Court that owing to a bonafide mistake in calculating the price of paddy or other article payable as rent, or the interest on the rent, or otherwise, the amount actually paid fell short, of the correct rent due for the fasli concerned as finally determined by the Court, the tenant shall be entitled to pay into Court the deficiency within fifteen days of the date on which the Court determined the correct rent and such payment shall, for the purposes of the Act, be deemed to have been made on the date on which the original payment into Court was made.

4.

An application under sections 18, [19-A] [The expression '19-A' was inserted by G.O. Ms. No. 2309, dated the 20th September, 7 943 which deemed to have come into force on the 27th October 1939.], 20, 22 or 23 of the Act shall be in writing, shall specify the name and address of the applicant, the name and address of the respondent, a clear statement of the facts of the case and the nature of the relief prayed for and shall be signed and verified in the same manner as a pleading under the Code of Civil Procedure, 1908 (Central Act V of 1908).

5.

(1) Any debtor may apply to the executive authority of a municipality, the President of a Local Board or the [Revenue Officer of the Corporation of Chennai] [Substituted for the word 'Madras' by the City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).] for information as to whether such debtor was or is assessed to profession, property or house-tax in terms of provisos (b) and (c) to section 3(ii) of the Act and the Executive Authority, President or Revenue Officer shall, thereupon, grant to such debtor a certificate in Form B, appended to these rules with such variations as circumstances may require as to whether he has been so assessed to profession, property or house-tax. Such certificate shall be received in every Court as evidence of the facts stated therein. (2) An application under section 26 or 27 of the Act or sub-rule (1) shall be in writing, shall specify the name and address of the person in respect of whom, and the purpose for which, such information is required, and shall be signed and verified in the same manner as a pleading under the Code of Civil Procedure, 1908 (Central Act V of 1908). A single application may be made to cover all the taxes referred in section 27 of the Act or in sub-rule (1) in respect of all the four half-years mentioned in provisos (b) and (c) to section 3(ii) of the Act. (3) In respect of every application under section 27 of the Act or under sub-rule (1) there shall be paid to the municipality the Local Board or the Corporation of [Chennai] [Substituted for the word 'Madras' by the City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).], as the case may be, a fee of [one rupee] [Substituted by G.O. Ms. No. 782, Industries Labour and Co-operation, dated the 23rd February 1959.] in cash for each half year in respect of which it is applied for.

6.

There shall be affixed to every application under section 15(4) read with rules 2, 18, 19, [19-A] [The expression '19-A' was inserted by G. O. Ms. No. 2309, dated the 20th September, 1943 which deemed to have been and to have come into force on 27th October 1939.], 20, 22, 23 or 26 of the Act a Court-fee stamp of the value of [one rupee] [Substituted by G.O. Ms. No. 782, Industries Labour and Co-operation, dated the 23rd February 1959.].

7.

There shall be paid-(a) in respect of every application under sub-section (4) of section 15 of the Act read with rule 2, process fees in accordance with the scale prescribed in item 1 of Appendix III to Order No. 200 of the [Standing Orders of the Board of Revenue] [The Board of Revenue was abolished by the Tamil Nadu Board of Revenue Abolition Act, 1980 (Tamil Nadu Act 36 of 1980). Now, it is called Revenue Standing Orders.]; and (b) in respect of every application under sections 18, 19, [19-A] [The expression '19-A' was inserted by G.O. Ms. No. 2309, dated the 20th September, 1943 which deemed to have been and to have come into force on 27th October 1939.], 20, 22 or 23 of the Act, process fees in accordance with the scales prescribed in the Civil Rules of Practice and Circular Orders.

8.

(1)A memorandum granted to a creditor under section 26 of the Act shall be in Form A appended to these rules with such variations as circumstances may require.(2)A certificate granted to a creditor under section 27 of the Act shall be in Form B appended to these rules with such variations as circumstances may require.

9.

(1)All suits and (execution proceedings for the recovery from an agriculturist of the arrears of rent due from him to a land-holder or an under-tenure-holder under the [Tamil Nadu Estates Land Act, 1908] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order 1969.] ([Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order 1969.] Act I of 1908) or to a janmi or intermediary under the Malabar Tenancy Act, 1929, which has accrued for the fasli year 1345 and prior faslis, whether solely or in combination with the arrears of rent which has accrued for fasli 1346 or 1347 or both, pending on the 21st June 1938, or instituted thereafter, shall stand stayed until the 30th September 1938, or if the rent for fasli 1347 is paid on or before the 30th September 1938, until the 30th September 1939:Provided that nothing in this sub-rule shall be deemed to deprive the agriculturist of any remedy or relief which may be available to him in any such suit or proceeding.Explanation 1. - In this sub-rule, the expression execution proceeding shall include the sale of an Agriculturist's holding under the provisions of Chapter VI of the [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order 1969.] Estates Land Act, 1908 ([Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order 1969.] Act I of 1908).Explanation 2. - In this sub-rule, the expression "fasli year" and "fasli" shall have the same meaning as in section 15 of the Act.(2)All suits and execution proceedings stayed under sub-rule (1) shall, after the 30th September 1938, or the 30th September 1939, as the case may be, proceed, subject to the provisions of the Act, from the stage which had been reached at the time when they were so stayed.

10.

Where, a person in whose name an assessment to property or house-tax has been made in terms of proviso (c) to section 3(ii) of the Act, proves that he was not the owner of the property or house assessed, at any time, during the period mentioned in the said proviso, such assessment shall not by itself have the effect of excluding such person from the category of "agriculturist" as defined in the said section.

11. [[Original rule 11 was omitted by G. O. No. 2309, dated the 20th September 1943 and new Rule 11 was added by G.O. No. 4190, dated the 20th September 1951.]

For the purposes of section 9-A of the Act, the proportion between the principal amount secured by the mortgage and "the portion thereof which is attributable to the portion of the property in the possession of the mortgagee shall be the same as that between the market value of the entire mortgaged property at the date of the mortgage and the market value of the portion of the property in the possession of the mortgagee at that date.] Rules Relating to Applications to Civil Courts for Scaling down of Non-Decreed Debts In exercise of the powers conferred by sub-section (1) and clauses (b) and (c) of sub-section (2) of section 28 of the [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order 1969.] Agriculturists Relief Act, 1939 [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order 1969.] Act IV of 1938), His Excellency the Governor of Tamil Nadu is hereby pleased to make the following rules:-

1. In these rules-

(a) "Act" means the [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order 1969.] Agriculturists Relief Act, 1938 ([Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order 1969.] Act IV of 1938); (b) "Court" means the Court having jurisdiction under these rules; and (c) Expressions used in these rules, but not defined herein shall have the same meaning as in the Act.

2.

(1) Where, any debt, other than a decree-debt, is due by any person claiming to be an agriculturist entitled to the benefits of the Act in respect of such debt, the debtor or, the creditor may apply to the Court for a declaration as to the amount of the debt due by the debtor to the creditor: Provided that no such application shall be presented or be maintainable if any suit for the recovery of the debt be pending. (2) The provisions of sub-rule (1) shall also apply to any person claiming that his debt has been discharged by virtue of the provisions of the Act. (See now section 19-A of the Act.)

3.

(1) Every application under rule 2 shall be in writing and shall be signed and verified in the manner prescribed by the Civil Procedure Code, 1908, for signing and verifying plaints. (2) There shall be affixed to every such application whether by the debtor or by the creditor a Court-fee stamp of the value of 12 annas. (3) There shall be paid in respect of every such application whether by the debtor or by the creditor, process fees in accordance with the scales prescribed in the Civil Rules of Practice

and Circular Orders.

4.

(1) Every application presented by a debtor shall contain the following particulars, namely:-(a) the name and address of the applicant; (b) the name and address of the creditor in respect of whose debt the application is presented; (c) a statement that the debtor claims to be an agriculturist entitled to the benefits of the Act in respect of the debt of the creditor as against whom the application is presented; (d) the particulars of the debt in respect of which the declaration is claimed, including all matters necessary to invoke the jurisdiction of the Court to have the debt scaled down; and (e) the amount for which the applicant prays that the debt may be reduced. (2) The provisions of sub-rule (1) shall apply mutatis mutandis to an application presented by a creditor.

5. The application shall be rejected if it does not comply with any of the requirements of rule 4.

The rejection of an application under this rule shall not preclude the applicant from presenting a fresh application.

6.

(1) On receipt of an application under rule 4, the Court shall, unless it rejects under rule 5, pass an order fixing a date for hearing the application. (2) Notice of the order under sub-rule (1) shall be served on the creditor and the debtor.

7. On the date originally fixed under rule 6 or on any subsequent date to which the application may be adjourned by the Court, the Court shall, after taking such evidence or making such enquiry as it may consider necessary, pass such order on the application as it thinks fit.

8. If, at any time, while an application is pending in the Court, a suit is filed by the creditor for the recovery of the debt which is the subject-matter of the application, the Court shall dismiss the application.

9. The order of the Court declaring the amount of the debt under rule 7 shall be subject to appeal and second appeal as if it were a decree in an original suit.

10. The Courts having jurisdiction under these rules shall be the Courts which would have jurisdiction to entertain suits for the recovery of the debts as unsealed.

Form A(See rule 8 (1))Memorandum granted by the Collector of under section 26 of the [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order 1969.] Agriculturists Relief Act, 1938 ([Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order 1969.] Act IV of 1938).Read application form dated Mr./ Mrs./Miss/..... of has been assessed to-(1)income-tax under* in the financial year ending ...(2)profession tax by the cantonment for the half year ending..... on a half yearly income of.....rupees, derived from a profession other than agriculture, under.....(3)Property or house-tax by the.....cantonment in respect of buildings or lands other than agricultural lands under*and that the aggregate annual rental value of such buildings of lands is rupees.Signature of the Collector.

Form B(See rules 5(1) and 8(2))Certificate granted under rule 5(1) of the rules made under clauses (a) and (b) of section 28 of the [Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order 1969.] Agriculturists Relief Act, 1938 ([Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order 1969.] Act IV of 1938).Certificate granted under section 27 of the Tamil Nadu Agriculturists Relief Act, 1938 ([Tamil Nadu] [Substituted for the word 'Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order 1969.] Act IV of 1938)Read application form dated.....I the executive authority of.....Municipality, the President of.....Board, the Revenue Officer of the Corporation of [Chennai] [Substituted for the word 'Madras' by the City of Madras (Alteration of Name) Act, 1996 (Tamil Nadu Act 28 of 1996).], do hereby certify that Mr./ Mrs./ Miss. of has been assessed to-(1)profession tax for the half-year ending on a half-yearly income of rupees derived from a profession other than agriculture, under*.....(2)property or house-tax in respect of buildings or lands other than agricultural lands under*and that the aggregate annual rental value of such buildings or lands is rupees.Signature of the authority granting the certificate.* The appropriate Act or law under which assessment is made shall be entered here.